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SUPREME COURT STATE OF NEW YORK

COUNTY OF NEW YORK : CRIMINAL TERM : PART 45

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PEOPLE OF THE STATE OF NEW YORK, Ind. No. 3534/08

- against -

MARK RICHARDSON

-----x

111 Centre Street
New York, New York
September 8, 2011

HONORABLE BRUCE ALLEN, Judge

FILED

JUN 25 2012

SUP COURT, APP. DIV
FIRST DEPT.

A P P E A R A N C E S :

NEW YORK COUNTY DISTRICT ATTORNEY
CYRUS R. VANCE, JR.
District Attorney, New York County
BY: MATTHEW BOGDANOS, ESQ.

LEGAL AID SOCIETY
BY: THOMAS KLEIN, ESQ.
BY: SARAH LEGLER, ESQ.
Attorney for defendant

CLAUDINE Y. DAVIDSON
SENIOR COURT REPORTER

1 THE CLERK: Recalling case on trial.
2 Mark Richardson. All attorneys and defendant
3 present. No jurors present at this time.

4 MR. BOGDANOS: Matthew Bogdanos for the
5 People.

6 MR. KLEIN: Legal Aid Society,
7 Thomas Klein.

8 Sarah Legler, L-E-G-L-E-R.

9 THE COURT: Good morning, everyone. We
10 have assembled a group of about 80 to 90 jurors and
11 I believe both sides have agreed that I will address
12 these folks as a group, and explain to them the
13 length of the trial and allow those who have what
14 they believe to be hardships to come in
15 individually, one at a time to express those
16 sentiments to us.

17 Once I speak to the individual jurors, I will
18 give both sides a chance to ask additional questions
19 concerning that particular juror.

20 Agreed?

21 MR. BOGDANOS: Yes.

22 MR. KLEIN: Fine.

23 THE COURT: Before we bring them in, I want
24 to put the Sandoval ruling on the record. If
25 Mr. Richardson takes the stand Mr. Bogdanos, you may

1 ask him the following question concerning his past
2 record: Since 1985, have you been convicted of X
3 felonies and Y misdemeanors. You cannot count the
4 youthful offender conviction.

5 And also, I believe that there were -- there was
6 at one -- on one occasion, he plead guilty to two
7 crimes on the same day and I believe under the law,
8 that counts as one conviction. So, check on that?

9 MR. BOGDANOS: Gotcha.

10 THE COURT: And confer with Mr. Klein as to
11 the numbers. If there is a disagreement on the
12 numbers, then I will take a look at the rap sheet.

13 MR. BOGDANOS: I am sure there won't be.
14 Thank you, your Honor.

15 THE COURT: Thank you.

16 THE COURT: Are both sides ready for the
17 panel?

18 MR. KLEIN: Yes.

19 THE COURT: May we have the jurors please.

20 COURT OFFICER: Jurors entering.

21 (Jury panel entering.)

22 THE CLERK: Will the panel please rise and
23 raise your right hand. Do you solemnly swear or
24 affirm that you will truly answer all questions put
25 to you touching upon your competency as an impartial

1 juror between the People of the State of New York
2 and Mark Richardson, the defendant at the bar? Do
3 you so swear or affirm?

4 PROSPECTIVE JURORS: I do.

5 THE COURT: Good morning, ladies and
6 gentlemen. I welcome all of you to part 45 as we
7 call this courtroom. My name is Bruce Allen and I'm
8 going to be the presiding judge at the trial. And
9 as you will hear, this is a criminal case. To those
10 who are standing, I apologize but you won't be
11 standing for long and I will explain why in a few
12 minutes. And I thank all of you for coming here. I
13 know that some of you traveled from Thomas Street
14 and the others came from 60 Center.

15 Is that true?

16 PROSPECTIVE JURORS: Yes.

17 THE COURT: Usually, we get our jurors
18 right from this building itself but there were none
19 available.

20 In the typical trial, criminal trial in Supreme
21 Court, we bring down about 60 jurors and we usually
22 can pick the juror from that group of 60. In this
23 case, we are not going to be able to do it that way
24 because the trial is going to take a little bit
25 longer than the typical criminal trial.

1 I have discussed this with the attorney and I am
2 going to tell you now that this trial is going to
3 take somewhere between two to three weeks. We are
4 shooting or hoping to get the case to you for
5 deliberations approximately two weeks from today.
6 That would be the 22nd. We might not make it and
7 you might not get this case until a few days later.
8 And indeed, if you are going to serve on the case,
9 you have to be prepared to come back that following
10 week beginning on the 26th.

11 I do not believe the trial will go beyond the
12 middle of that week. That would be about the 28th.
13 But it is a longer than average trial. And we
14 recognize that. For some of you, this trial may
15 prove to be too much. So what we are going to do is
16 give those folks who do have a scheduling concern or
17 a problem with this case a chance to come in
18 individually one by one and we are going to speak to
19 those folks this morning.

20 To be excused for a scheduling reason, the law
21 says that you have to show some sort of a hardship.
22 In other words, even though it's the luck of the
23 draw, you might get sent to a one week trial. You
24 might get sent to a three month trial but the law is
25 the same in every case. You can't be excused unless

1 there is some sort of a hardship.

2 So please bear that in mind. I am not going to
3 tell you very much about the case itself. It's
4 obviously a very important case, a very serious
5 case. The top charge is murder in the second
6 degree. I can also tell you that we have very fine
7 attorneys in this case on both sides. They are
8 going to work very hard to make sure that we keep to
9 the schedule. There will be no delay tactics.

10 For those who wind up serving on the case, I
11 think I can say to you this will truly be a once in
12 a lifetime experience, and to those who serve, it is
13 very likely that this will be the last time that you
14 have to serve on a case. You won't even be asked to
15 come down here again for at least eight years. They
16 give you that because of the length of the trial.

17 I should also mention that the workday itself
18 begins at about 9:45. We try to get out of here
19 everyday by 4:30, although we might go beyond 4:30
20 occasionally. There will be a couple of days off
21 during the course of the trial. I have
22 institutional assignments on at least two days so we
23 won't be in session. You will still get paid but we
24 won't be in session. Those days will be Friday, the
25 ninth and also Friday the 16th.

1 Maybe I have said enough. I see some grim faces out
2 there, and I understand. We all understand. It's not
3 easy coming down here to serve on any case much less a
4 case like this one.

5 So, we will be speaking now to the folks who would
6 like to speak to us concerning a possible hardship.
7 Before we do that, just give me a sneak preview. How
8 many are thinking right now, I can do this or I might be
9 able to do this?

10 By the way, those who want to make calls to
11 employers, to make sure that it's okay with the folks at
12 work, you can do that now and let us know at 2:15 whether
13 or not it works and we -- you will have a second chance
14 at 2:15 if you think you have a hardship at that time.
15 But just right now, how many think they can do it
16 (indicating)?

17 THE COURT: That's a tremendous response,
18 really it is and I thank all of you in advance and
19 for those who think they can do it, you don't have
20 to wait around while we speak to the other folks
21 because this is going to take awhile. Those who are
22 thinking they can do it -- those folks are simply
23 going to be asked to come back at 2:15.

24 For everyone else who thinks they may have a
25 hardship, Sergeant Hut will take over and he will

1 send you in one at a time with your ballet and we'll
2 speak to you in the courtroom itself.

3 Yes, ma'am?

4 PROSPECTIVE JURORS: Is there a chance of
5 being sequestered in this case?

6 THE COURT: No. You will not be
7 sequestered. In fact, I thank you for that
8 question. And anyone else who has any question at
9 all, I will be happy to try to answer that now
10 before we send everyone out. Anyone else with any
11 question, anything that I said confuses you in any
12 way? Thank you, ma'am. Thank you, everyone.

13 Those who are coming back because they can do
14 it, 2:15 come directly here to this courtroom.
15 Everyone else, Sergeant Hut will send you in one at
16 a time but you are all free to leave the courtroom
17 now.

18 (Prospective jurors exit the courtroom at this
19 time.)

20 COURT OFFICER: Jurors entering. Christin
21 Goldmansour, G-O-L-D-M-A-N-S-O-U-R.

22 THE COURT: I see you have got a medical
23 problem?

24 PROSPECTIVE JUROR: Which wasn't the
25 original issue but when they said two weeks, I was

1 okay. But first of all, I am self-employed and I do
2 consulting. So to take two weeks off was okay but I
3 was pushing everything back.

4 THE COURT: It's an economic concern?

5 PROSPECTIVE JUROR: And also I will have to
6 get stitches out at a certain point.

7 THE COURT: I am going to also ask you to
8 try to speak towards them. Any questions from
9 counsel?

10 MR. BOGDANOS: No, judge.

11 THE COURT: You are excused, ma'am. Thank
12 you very much.

13 (Prospective juror exits at this time.)

14 THE COURT: Joseph Alhadeff,
15 A-L-H-A-D-E-F-F.

16 PROSPECTIVE JUROR: I am a financial
17 advisor. I work on commission only and I also have
18 a trip scheduled for the 28th of September.

19 THE COURT: You lose money if you had to
20 serve?

21 PROSPECTIVE JUROR: Yes. I won't make it.

22 THE COURT: I will excuse you. Are there
23 any questions from counsel?

24 MR. BOGDANOS: No.

25 MR. KLEIN: No.

1 (Prospective juror exits at this time.)

2 COURT OFFICER: Juror entering.

3 THE COURT: Sona Lise, H-A-R-A-T-U-N-I-A-N.

4 Middle name L-I-S-E. First name, S-O-N-A.

5 PROSPECTIVE JUROR: I am part of a very
6 small three group, group team. I am responsible for
7 putting together a national mid-October meeting.

8 THE COURT: What kind of work do you do?

9 PROSPECTIVE JUROR: Design training. It's
10 for our top leaders at the firm.

11 THE COURT: You think it would be worth
12 while to check with the folks at work?

13 PROSPECTIVE JUROR: I spoke to them
14 yesterday just in case and put together a time line
15 and it so happens the dates that you talked about
16 are critical days I have to turn deliverable.

17 THE COURT: You know it's not going to
18 work?

19 PROSPECTIVE JUROR: It's going to be very
20 difficult because it's such a small group. I don't
21 think anybody else from our team will be able to
22 take that on for three weeks. It will be very
23 difficult.

24 THE COURT: Anyone?

25 MR. BOGDANOS: No.

1 MR. KLEIN: No.

2 THE COURT: You are excused. Thank you
3 very much.

4 (Prospective juror exits at this time.)

5 THE COURT: Good morning. We just made it
6 by one minute.

7 Robyn Gottlieb, R-O-B-Y-N. G-O-T-T-L-I-E-B.

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Did you have a problem?

10 PROSPECTIVE JUROR: I served on many
11 juries. When I was over at civil court, they said
12 this would go through next week and so I came over
13 but -- I have a 95 year old mother and this is
14 getting awfully close to the Jewish holidays and I
15 have a lot of preparation I have to do with her.

16 THE COURT: You take care of your mom?

17 PROSPECTIVE JUROR: I am her only child. I
18 should also mention I work for the medical examiner.

19 THE COURT: That won't disqualify you.

20 PROSPECTIVE JUROR: I know. I just wanted
21 to mention it.

22 THE COURT: Anyone questions?

23 MR. BOGDANOS: No.

24 MR. KLEIN: No.

25 THE COURT: I will excuse you,

1 Ms. Gottlieb.

2 PROSPECTIVE JUROR: Thank you, so much.

3 (Prospective juror exits the courtroom.)

4 COURT OFFICER: Step up.

5 THE COURT: Good afternoon, sir.

6 This is -- first name Francisco Hernandez; usual
7 spelling.

8 PROSPECTIVE JUROR: Well this is my first
9 time here. I just wanted to say I think my guess it
10 will be a hardship. I don't know exactly.

11 THE COURT: What is the problem?

12 PROSPECTIVE JUROR: The number of days the
13 company will cover.

14 THE COURT: Who do you work for?

15 PROSPECTIVE JUROR: Circle North America.

16 THE COURT: What is that?

17 PROSPECTIVE JUROR: What company?

18 THE COURT: What do they do?

19 PROSPECTIVE JUROR: It's an IT company.

20 THE COURT: What did they tell you in terms
21 of how many?

22 PROSPECTIVE JUROR: Actually, I just texted
23 them about a specific answer. That's why I don't
24 have all the answers now.

25 THE COURT: You might be able to serve?

1 PROSPECTIVE JUROR: I might be able to
2 serve but definitely a limit in the number of days.

3 THE COURT: I will ask you to come back at
4 2:15 with the other people here and we will bring
5 you in then and you can tell us if the situation
6 after you hear from them.

7 PROSPECTIVE JUROR: Okay.

8 THE COURT: Otherwise, you are willing to
9 do it?

10 PROSPECTIVE JUROR: Yes.

11 COURT OFFICER: Come back at 2:15.

12 THE COURT: Goods afternoon, ma'am. First
13 name Kaman, K-A-M-A-N. Last name Lam, L-A-M. What
14 is your concern?

15 PROSPECTIVE JUROR: I am self-employed. So
16 I am not sure.

17 THE COURT: You are going to lose money if
18 you have to serve on a trial?

19 PROSPECTIVE JUROR: I will be happy to if I
20 have to.

21 THE COURT: What kind of work do you do?

22 PROSPECTIVE JUROR: Free-lance make up
23 artist.

24 THE COURT: In a--

25 MR. BOGDANOS: I can't hear.

1 PROSPECTIVE JUROR: Free-lance make up
2 artist.

3 MR. BOGDANOS: Thank you.

4 THE COURT: What do you think? You could
5 do it or no?

6 PROSPECTIVE JUROR: If I have to, I will.

7 THE COURT: You are willing to do it?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Are you going to lose a lot of
10 money?

11 PROSPECTIVE JUROR: It could be.

12 THE COURT: Do you speak English well
13 enough to do this?

14 PROSPECTIVE JUROR: That is part of my
15 concern as well.

16 THE COURT: Have you been able to follow
17 me?

18 PROSPECTIVE JUROR: Yes but maybe not like
19 very difficult subjects. Normal conversation, I can
20 handle.

21 THE COURT: Counsel, any questions?

22 MR. BOGDANOS: Ma'am, you mentioned that
23 since you free-lance, you would be able to do some
24 of your -- some of the work after the court was done
25 for the day, right?

1 PROSPECTIVE JUROR: Depends on the jobs
2 because it's like different jobs. It's different
3 time everyday.

4 MR. BOGDANOS: Thank you, so much.

5 MR. KLEIN: You mentioned you said that
6 conversational talk, you have no problem.

7 PROSPECTIVE JUROR: Like this, I have no
8 problem.

9 MR. KLEIN: Okay. And if there was
10 testimony from doctors or scientists about
11 scientific issues, do you think that would present
12 any problem or that would be okay?

13 PROSPECTIVE JUROR: I want to understand
14 everything. Do you have like a translator for
15 Chinese?

16 THE COURT: No. That we can't do. Seems
17 like I would describe it as fluent--

18 PROSPECTIVE JUROR: You think so?

19 Conversation, I think is perfect.

20 MR. KLEIN: What is your concern about the
21 scientific discussion?

22 PROSPECTIVE JUROR: I am very bad at
23 biology.

24 MR. KLEIN: You don't have to be good at
25 any specific topic but are you afraid that you might

1 not follow everything or hear everything or
2 understand everything? Just tell us.

3 PROSPECTIVE JUROR: If it's like words of
4 chemicals, I don't understand.

5 MR. BOGDANOS: You are not saying that's a
6 language issue. That's just you are not good at
7 biology issues.

8 PROSPECTIVE JUROR: Or maybe sometimes I
9 don't understand some difficult words.

10 THE COURT: Ms. Lam, I don't understand
11 biology either. I am going to ask you to come back.

12 (Prospective juror exits the courtroom at this
13 time.)

14 COURT OFFICER: Juror entering.

15 THE COURT: Good afternoon, sir.

16 First name M-A-D-H-A-V. Last name
17 T-A-D-I-K-O-N-D-A.

18 THE COURT: So you are worried about this
19 case?

20 PROSPECTIVE JUROR: I am, yes.

21 THE COURT: What is the problem?

22 PROSPECTIVE JUROR: I am worried about the
23 length of time on it. I am basically the primary
24 financial provider for our family and I have a
25 project that will start -- basically, meant to fly

1 to India a week from tomorrow. I have been working
2 on it for three to four months. It's around a bank
3 take over in India. We have been doing all the
4 proprietary work. It's starting in India the
5 following Monday.

6 THE COURT: Does anyone have any questions?

7 MR. KLEIN: No.

8 MR. BOGDANOS: No.

9 THE COURT: I am going to excuse you then.
10 Don't want you to miss that trip.

11 PROSPECTIVE JUROR: Thank you.

12 (Prospective juror exits the courtroom.)

13 THE COURT: Good afternoon, ma'am.

14 Crystal Blackson, B-L-A-C-K-S-O-N.

15 THE COURT: How are you?

16 PROSPECTIVE JUROR: So so.

17 THE COURT: A little unhappy. What is your
18 worry?

19 PROSPECTIVE JUROR: I was in a car accident
20 so I go to therapy.

21 THE COURT: How often?

22 PROSPECTIVE JUROR: Three times a week.

23 THE COURT: During this trial, you have
24 sessions three times a week?

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Any questions?

2 MR. BOGDANOS: No judge.

3 MR. KLEIN: No.

4 THE COURT: You are excused Ms. Blackson.

5 We are not--

6 (Prospective juror exits at this time.)

7 COURT OFFICER: Juror entering.

8 THE COURT: Good afternoon. Your ballet
9 please.

10 THE COURT: This is James Moyer, M-O-Y-E-R.
11 What's the problem?

12 PROSPECTIVE JUROR: Well, I just got
13 started on a contract for my agency with Bank of
14 America, four month contract. So it would cause a
15 hardship to the project to be gone just at the start
16 of it for a few weeks.

17 THE COURT: Is it you and a lot of people
18 working with you or just you alone?

19 PROSPECTIVE JUROR: No. There is like --
20 in our group, we have like ten people. We are not
21 all doing one thing, different types of things but I
22 don't know exactly which project. I just literally
23 got hired for the job.

24 THE COURT: What kind of work is it?

25 PROSPECTIVE JUROR: Like a contract

1 software development for Bank of America.

2 THE COURT: Do you work for a company.

3 PROSPECTIVE JUROR: Through an agency that
4 placed me at Bank of America.

5 THE COURT: This will be an economic
6 opportunity that you would lose?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Anyone?

9 MR. BOGDANOS: Just one question. So, you
10 couldn't sit for any trial?

11 PROSPECTIVE JUROR: If its short.

12 PROSPECTIVE JUROR: A week long would be
13 hard.

14 MR. BOGDANOS: Got it. Thank you.

15 THE COURT: Mr. Moyer, you are on your way.
16 You are excused.

17 PROSPECTIVE JUROR: Thank you.

18 THE COURT: Good afternoon. This is Scott
19 Portnoy, P-O-R-T-N-O-Y.

20 THE COURT: Go ahead. What's the problem?

21 PROSPECTIVE JUROR: The problem is the
22 length. Two reasons, the length of the trial may
23 impede on Jewish holiday toward the ends of this
24 month as well as the fact that I have been recently
25 notified by my employer that my company will be

1 downsizing and I will be let go towards the end of
2 this year and given that I feel like my time would
3 be better served for my family and my own benefit to
4 be looking for a job as a full-time job.

5 THE COURT: Well if I were to promise you
6 that you won't miss any religious occasions, would
7 that make a difference or is your concern more about
8 the job?

9 PROSPECTIVE JUROR: Quite honestly, they
10 are both very important.

11 THE COURT: Are you looking for work
12 already?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: What kind of work do you do?

15 PROSPECTIVE JUROR: Commercial real estate
16 finances. I was notified by my employer about two
17 weeks ago.

18 THE COURT: Because your company is
19 shrinking?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Were you given notice that you
22 will be in fact terminated?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Anyone?

25 MR. BOGDANOS: No.

1 MR. KLEIN: No.

2 THE COURT: Then I will excuse you
3 Mr. Portnoy. Good luck.

4 PROSPECTIVE JUROR: Thank you. I
5 appreciate it.

6 (Prospective juror exits at this time.)

7 COURT OFFICER: Juror entering.

8 THE COURT: Good afternoon, sir.

9 It's William Goldin, G-O-L-D-I-N.

10 PROSPECTIVE JUROR: I am under an eviction
11 order and I am in the process of removing my
12 belongings from my apartment.

13 THE COURT: Do you have a place to go?

14 PROSPECTIVE JUROR: No. This is why I am
15 saying I am -- I am not moving because I don't have
16 a place to go but I am removing my belongings. I am
17 in the course of doing that. I have couple of
18 extensions because I have lots of things and I do it
19 all by myself. Renting a van and I rented some
20 storage rooms.

21 THE COURT: Sounds like a lot.

22 THE COURT: Any questions?

23 MR. BOGDANOS: No.

24 MR. KLEIN: No.

25 THE COURT: Mr. Goldin, I am going to

1 excuse you. I am not going to make you serve.

2 PROSPECTIVE JUROR: Thank you very much.

3 (Prospective juror exits at this time.)

4 COURT OFFICER: Juror entering.

5 THE COURT: This is Bruce. Last name
6 Bertrand, B-E-R-T-R-A-N-D. Go ahead Mr. Bertrand.

7 PROSPECTIVE JUROR: I have three potential
8 hardships. One scheduling issue. One of a
9 financial nature and one that's both the one that's
10 both is that I just two days ago finally confirmed
11 that I will eligible to purchase my first home and
12 legal paperwork has come in. I have approximately
13 ten days to secure the financing for that. The
14 reason that I am purchasing that new home is because
15 it's a limited equity co-op meaning that I will be
16 able to save a lot of money every month.

17 I can barely afford my current rent right now
18 which leads me to the truly financial hardship which
19 is after ten days, my employer will stop paying my
20 salary. \$40 a day will leave me in a position where
21 I cannot pay my rent at the end of this month and
22 the scheduling, purely scheduling hardship is that
23 my employer is a school. We have just started a new
24 semester and I work as a system engineer for
25 learning department, technical department.

1 I am one of the only people who can provide the
2 technical services that they will need over the next
3 couple of weeks.

4 THE COURT: Which school is this?

5 PROSPECTIVE JUROR: Manhattan School of
6 Music.

7 THE COURT: Anyone?

8 MR. BOGDANOS: Yes, if I could.
9 Congratulations on the news about the mortgage.
10 That's great. Since you work in a school of all
11 people, I don't need to tell you how crucially
12 important to our community, how important jury duty
13 is. Knowing what you know about the fact that
14 without a jury, the system just stops working, do
15 you really believe -- tell us what you really
16 believe that you cannot serve even if the case may
17 go 12, 13 days instead of the ten for which you are
18 getting paid. Is this still your position that you
19 would not be able to serve?

20 PROSPECTIVE JUROR: From a financial
21 position, no. From the possibility that many of the
22 events which are already scheduled at the school
23 will not be able to go on or will only go on at a
24 very limited level of functionally without the
25 technical assistance that I will provide, no.

1 MR. BOGDANOS: Okay. Thank you.

2 MR. KLEIN: No.

3 THE COURT: You are excused, Mr. Bertrand.

4 (Prospective juror exits the courtroom at this
5 time.)

6
7 COURT OFFICER: Juror entering.

8 THE COURT: Good afternoon, ma'am. Amanda
9 Zammit, Z-A-M-M-I-T.

10 THE COURT: Ms. Zammit, you have a concern?

11 PROSPECTIVE JUROR: I am pregnant and I am
12 already thinking this case will be stressful on me.
13 I am new to the country. I don't involve much, you
14 know. My main concern is my pregnancy.

15 THE COURT: We don't want to jeopardize the
16 health of you.

17 PROSPECTIVE JUROR: I am already stressing.

18 THE COURT: You seem a little tense.

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Anyone?

21 MR. KLEIN: No.

22 MR. BOGDANOS: No.

23 THE COURT: You are on your way. You are
24 excused.

25 PROSPECTIVE JUROR: Thank you so much.

1 THE COURT: Is it your first?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Congratulations.

4 PROSPECTIVE JUROR: Thank you.

5 (Prospective juror exits at this time.)

6 COURT OFFICER: Juror entering.

7 THE COURT: Step up. Good afternoon,
8 ma'am. I will take the ballet. This is Marilyn
9 Korn, K-O-R-N. M-A-R-I-L-Y-N.

10 PROSPECTIVE JUROR: I am a sole proprietor
11 from my real estate. The only help is my daughter
12 who comes in from Pennsylvania two days a week.

13 THE COURT: It's a economic concern.

14 PROSPECTIVE JUROR: Because I could do a
15 week but two weeks would be a hardship for me.

16 THE COURT: Residential or commercial?

17 PROSPECTIVE JUROR: Residential.

18 THE COURT: Anyone?

19 MR. BOGDANOS: No.

20 MR. KLEIN: No.

21 THE COURT: Ms. Korn, back to work.

22 You are excused from this case.

23 PROSPECTIVE JUROR: Thank you.

24 (Prospective juror exits the courtroom at this
25 time.)

1 COURT OFFICER: Step up.

2 THE COURT: Sir, come on up. Have a seat.

3 I will take the ballet. This is Stephen Abreu,

4 S-T-E-P-H-E-N. Last name A-B-R-E-U.

5 THE COURT: You have a problem serving on
6 this kind of case?

7 PROSPECTIVE JUROR: I currently work
8 full-time one hour shifts about three to four days a
9 week. That could kind of intervene. I got loans to
10 pay.

11 THE COURT: Would your employer continue to
12 pay you or you would lose out?

13 PROSPECTIVE JUROR: I would definitely lose
14 out.

15 THE COURT: What kind of work?

16 PROSPECTIVE JUROR: Barback, bartenders
17 assistant.

18 THE COURT: There are many employees there?

19 PROSPECTIVE JUROR: It's a small staff.
20 It's about four or five of us. We have our own
21 dedicated shifts that we have to comply with.

22 THE COURT: Your understanding is if you
23 are not there, you just don't get there?

24 PROSPECTIVE JUROR: Definitely no.

25 THE COURT: They won't reimburse you?

1 PROSPECTIVE JUROR: No way.

2 THE COURT: Counsel?

3 MR. BOGDANOS: Sir, would it be possible --
4 have you spoken to your employer about the fact that
5 you have been called for jury duty?

6 PROSPECTIVE JUROR: No, I have not.

7 MR. BOGDANOS: I know you know this, so
8 forgive me for saying this, but you recognize that
9 jury duty is one of the most important duties you
10 can provide for your community and your society.
11 You agree with that, right?

12 PROSPECTIVE JUROR: Of course.

13 MR. BOGDANOS: Is it possible that your
14 employer might be able to change your shift? I was
15 in the restaurant business. Barback, you can move
16 shifts. You can change them, so you would still be
17 able to make the same hours during the week but you
18 spread it out. You could change shifts. You could
19 do it.

20 PROSPECTIVE JUROR: Is it Monday through
21 Friday?

22 MR. BOGDANOS: Monday through Thursday.
23 You would still have Friday and Saturday, the real
24 money days.

25 PROSPECTIVE JUROR: I could ask my manager.

1 There is no problem.

2 THE COURT: Why don't you do that and tell
3 us -- let us know if you can at 2:15. We don't want
4 to you lose money obviously.

5 PROSPECTIVE JUROR: Okay.

6 THE COURT: But if as the way Mr. Bogdanos
7 suggested to change shifts around and you are still
8 willing to do it?

9 PROSPECTIVE JUROR: That's no problem. I
10 will let you guys know.

11 MR. KLEIN: Judge, we also don't want you
12 to get in a position where you are a juror here and
13 then you go off and work all night.

14 THE COURT: We can't have that.

15 MR. KLEIN: We can't have that either.

16 THE COURT: We would not ask you to do
17 that. That's too much.

18 MR. KLEIN: You can't come in and say now I
19 can rest. I will be a juror.

20 PROSPECTIVE JUROR: I was--

21 MR. KLEIN: Figure that out and let us
22 know.

23 PROSPECTIVE JUROR: No problem.

24 THE COURT: Come back this afternoon at
25 2:15.

1 PROSPECTIVE JUROR: Not a problem.

2 (Prospective juror exits the courtroom at this
3 time.)

4 COURT OFFICER: Juror entering.

5 THE COURT: Mr. John Li, L-I.

6 How are you?

7 PROSPECTIVE JUROR: Good.

8 THE COURT: Nice and loud.

9 PROSPECTIVE JUROR: So the reason I wanted
10 to speak to you your Honor is because I am not sure
11 if I can take an extended period of time off of my
12 current job my employer. I know it's not a really
13 hardship. That's why I wanted to get your expertise
14 or advice. I am not sure if I could take two to
15 three weeks at a time because right now, my team
16 only has three teams.

17 One person is going on vacation. It could kind
18 of disrupt the day-to-day activity if I were not
19 there for an extended period of time.

20 THE COURT: What kind of work is it?

21 PROSPECTIVE JUROR: Financial analyst at
22 Barclay's Capital.

23 THE COURT: That's a big outfit?

24 PROSPECTIVE JUROR: Yes. And there is only
25 three people.

1 THE COURT: Small group?

2 PROSPECTIVE JUROR: My team that is three
3 people and one person goes on vacation for a month.

4 THE COURT: This trial will be over then?

5 PROSPECTIVE JUROR: I thought you said--

6 THE COURT: I said the outside date would
7 be 27th, 26th, somewhere in there.

8 PROSPECTIVE JUROR: There could be some
9 overlap. I just -- I wasn't too sure.

10 THE COURT: Why don't you do it this way?
11 Do you have a supervisor?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Call that person and let us
14 know if -- you can tell them the judge said, I can't
15 get out of this. But I don't want to get you in
16 trouble at work?

17 PROSPECTIVE JUROR: I mean--

18 THE COURT: All we ask is that you come
19 back at 2:15 and tell us what you learned.

20 PROSPECTIVE JUROR: Okay.

21 I will make that call.

22 THE COURT: Fair enough, Mr. Li?

23 MR. BOGDANOS: I do have one question. I
24 am sorry. Thank you so much because you are clearly
25 willing to serve.

1 PROSPECTIVE JUROR: Yes. I don't have a
2 problem.

3 MR. BOGDANOS: We admire that. Thank you.
4 You do understand and I think this is part of what
5 you are asking, that legally you can't be in any way
6 punished or penalized for serving as a juror by your
7 employer. You know that, right?

8 PROSPECTIVE JUROR: Okay.

9 MR. BOGDANOS: Those are your rights.

10 PROSPECTIVE JUROR: Sure.

11 MR. BOGDANOS: You are here because you are
12 ordered by the Court to appear for jury duty.

13 PROSPECTIVE JUROR: Sure.

14 MR. BOGDANOS: And if in any way anyone
15 Barclays, that's a big company. If anyone at
16 Barkclays in any way attempts to punish or penalize
17 you, you will come this afternoon and you will let
18 his Honor know right away.

19 PROSPECTIVE JUROR: Okay.

20 MR. BOGDANOS: Thank you, sir.

21 (Prospective juror exits the courtroom at this
22 time.)

23 COURT OFFICER: Step up.

24 THE COURT: Good afternoon, ma'am. Did you
25 have your ballet?

1 THE COURT: First name E-S-M-E-R-A-D-L-D-A.
2 McKormick, M-C-K-O-R-M-I-C-K.

3 Are you able to serve?

4 PROSPECTIVE JUROR: Well, I would prefer
5 not to.

6 THE COURT: Nice and loud.

7 PROSPECTIVE JUROR: I don't mind serving on
8 a case that's two or three days. Some people feel
9 that is going to be quick but something like this, I
10 really -- I need flexibility and this would keep me
11 sort of--

12 THE COURT: What sort of work do you do?

13 PROSPECTIVE JUROR: I have a full-time job
14 but I have credit card debt that doesn't seem to go
15 away. So I do use vacation time from the job to do
16 part-time work. But being a juror, I am not going
17 to have any flexibility. So that's one of my
18 reasons.

19 THE COURT: You do get paid?

20 PROSPECTIVE JUROR: Yes. My employer pays
21 me.

22 THE COURT: We pay you too.

23 If your employer is paying you--

24 PROSPECTIVE JUROR: Besides \$40 is not
25 going to make it.

1 THE COURT: So anyway, those are my
2 reasons. You can decide. I am sorry. There is one
3 other reason.

4 My boss has already expressed to me that he
5 really hopes I don't get on a case. It's a two
6 person office. I know for him it will be very hard
7 for me to be out a long while.

8 THE COURT: What sort of work is it?

9 PROSPECTIVE JUROR: Dissertation. We
10 finalize the PHD degrees for the graduate school for
11 graduate Arts and science at Columbia.

12 THE COURT: How long have you been doing
13 that?

14 PROSPECTIVE JUROR: Eighteen years.

15 THE COURT: Anyone?

16 MR. BOGDANOS: Yes, I do. Ma'am, you do
17 know and if you don't, I am telling you, you do know
18 that no employer can punish or penalize you in any
19 way, shape or form for coming to jury duty.

20 PROSPECTIVE JUROR: Yes; I know.

21 MR. BOGDANOS: Since you went to work at my
22 old law school, I know that you know like the rest
23 of the academic community knows that there are few
24 things as important for the community as jury duty.

25 PROSPECTIVE JUROR: Yes.

1 MR. BOGDANOS: Without jurors, the system
2 just doesn't work.

3 PROSPECTIVE JUROR: I understand.

4 MR. BOGDANOS: Taking all that into account
5 and given the fact that you are working for a
6 university, a university that gives back to the
7 city, do you really think it's a hardship for you to
8 serve or do you think you could really do your duty
9 and serve in this case?

10 PROSPECTIVE JUROR: I mean if you decide
11 that you think I can do it, then of course I am
12 going to do it you know but I am just saying, I
13 would prefer not to.

14 MR. KLEIN: Really, it's a lot up to you.
15 It depends on what you tell us. If you say to us,
16 listen, I would like to serve but I am just going to
17 go broke, you are going to get excused. If you say
18 it's going to be hard but I will make it, then the
19 judge is going to ask you to stay. It's up to you.

20 PROSPECTIVE JUROR: Okay. I mean I am not
21 going to lie. I am not going to die you know but
22 the interest rates are going to just keep going up.
23 I guess I get stressed out just thinking about that.

24 THE COURT: I do thank you for your candor
25 but I am going to ask you to come back.

1 PROSPECTIVE JUROR: No problem.

2 THE COURT: Thank you, very much.

3 (Prospective juror exits the courtroom at this
4 time.)

5 COURT OFFICER: Juror entering.

6 THE COURT: This is Melissa Miller,
7 M-I-L-L-E-R. What was your concern?

8 PROSPECTIVE JUROR: I only get paid on an
9 hourly basis. I work at an office. If I don't go,
10 I don't get paid.

11 THE COURT: Small office.

12 PROSPECTIVE JUROR: It's a small hedge fund
13 but they don't pay me if I don't work. I can't pay
14 my rent.

15 THE COURT: Did you discuss that with them?

16 PROSPECTIVE JUROR: I did.

17 THE COURT: I don't know what the rules are
18 but if an employer has a certain number of
19 employees, bylaw they are required to pay you but--

20 PROSPECTIVE JUROR: I am only part-time so
21 I am not--

22 I work only 30 or less hours but I make enough
23 to live on but if I don't work those hours, then I
24 can't--

25 THE COURT: They could probably do that,

1 not pay you?

2 PROSPECTIVE JUROR: Yes and I don't get
3 vacation or sick days.

4 THE COURT: Any questions?

5 MR. BOGDANOS: No.

6 MR. KLEIN: No.

7 THE COURT: You are excused then. We don't
8 want you to suffer economically.

9 PROSPECTIVE JUROR: Thank you.

10 (Prospective juror exits the courtroom at this
11 time.)

12 COURT OFFICER: Juror entering.

13 THE COURT: Come on up, sir. Do you have
14 your ballet?

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: This is Barry Fishman,
17 F-I-S-H-M-A-N.

18 Go ahead.

19 PROSPECTIVE JUROR: I have a doctor's
20 appointment on the 19th. Took me a month or two to
21 get it.

22 THE COURT: The 19th. I don't think we
23 will be in session that day?

24 PROSPECTIVE JUROR: Before you mentioned
25 you would. It's a Thursday.

1 THE COURT: Do you know the time of the
2 appointment?

3 PROSPECTIVE JUROR: It's an all day
4 appointment. It's in New Jersey. I have to take a
5 bus in the morning.

6 PROSPECTIVE JUROR: The other court -- I
7 figured I had enough time.

8 THE COURT: Any questions for Mr. Fishman?

9 MR. BOGDANOS: No.

10 THE COURT: You are excused.

11 PROSPECTIVE JUROR: Thank you.

12 (Prospective juror excused at this time.)

13 THE COURT: Come up. If you have the
14 ballet, I can read it into the record. Thank you.
15 First name Maysoun, M-A-Y-S-O-U-N. Last name Freij,
16 F-R-E-I-J.

17 Go ahead.

18 PROSPECTIVE JUROR: My excuse?

19 THE COURT: Whatever you want to say.

20 MR. KLEIN: We can start it like that.

21 PROSPECTIVE JUROR: I just think it would
22 be very stressful and the time of two three weeks
23 and the stress of it. I have just reached a point
24 where I am feeling well just in terms of like eating
25 every couple of hours and so forth. I don't really

1 think it would be very good for my health and I have
2 a note from my doctor excusing me but I didn't want
3 to be called back every six months so I figured I
4 should try to.

5 THE COURT: Let me just ask.

6 MR. BOGDANOS: You are saying you could sit
7 on a shorter jury?

8 PROSPECTIVE JUROR: If it weren't maybe
9 something so serious. I feel like also I am anxious
10 to begin with. The anxiety of such a serious trial
11 doesn't really seem to be in my interest at this
12 point.

13 THE COURT: I will excuse you.

14 PROSPECTIVE JUROR: I appreciate it.

15 THE COURT: Good luck with the baby.

16 PROSPECTIVE JUROR: Okay. I appreciate it.

17 (Prospective juror excused at this time.)

18 COURT OFFICER: Juror entering.

19 THE COURT: Come on up. Do you have your
20 ballet?

21 (Indicating)

22 THE COURT: Christina, K-R-I-S-T-I-N-A.
23 Last name, Wildenstein, W-I-L-D-E-N-S-T-E-I-N.

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Your concern.

1 PROSPECTIVE JUROR: My husband is in a law
2 school in France and I am going to have go with him.
3 He has already been heard once and he has to go back
4 again. I don't know when it's going to be. If it's
5 too long then I wouldn't be able to go.

6 THE COURT: It can be anytime?

7 PROSPECTIVE JUROR: It would be in the end
8 of September beginning of October. I don't know.

9 THE COURT: As I said, we will be finished
10 really I think by the 26th or 27th.

11 PROSPECTIVE JUROR: I don't know.

12 THE COURT: If I were to promise you that
13 you will be able to go to France with your husband,
14 are you then willing to serve?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: You have my promise.

17 PROSPECTIVE JUROR: Okay.

18 THE COURT: 2:15. We will keep the ballet.

19 PROSPECTIVE JUROR: Okay. But you are
20 free.

21 (The prospective juror exits the courtroom at
22 this time.)

23 COURT OFFICER: Juror entering.

24 THE COURT: It's first name L-A-I-L-A.

25 Last name Harchicha, H-A-R-C-H-I-C-H-A.

1 THE COURT: What is your concern?

2 PROSPECTIVE JUROR: Sir you know I am just
3 a cook and I don't have this high education. I am
4 working. I just had this job for three months and
5 they can't offer the time to be absent. I am going
6 to get fired.

7 THE COURT: Where do you work?

8 PROSPECTIVE JUROR: Small restaurant. Like
9 Argentinian.

10 THE COURT: You are fearful that if you get
11 stuck on a jury that you might get fired?

12 PROSPECTIVE JUROR: Yes, because I just had
13 this job. I am support willing myself. I am just
14 single.

15 THE COURT: Anyone?

16 MR. BOGDANOS: No.

17 MR. KLEIN: No.

18 THE COURT: You are excused.

19 (Prospective juror excused at this time.)

20 COURT OFFICER: Juror entering.

21 THE COURT: Step up. First name Susie,
22 S-U-S-I-E. Last name Chin, C-H-I-N. What would you
23 like to tell us?

24 PROSPECTIVE JUROR: They hear it.

25 THE COURT: In fact, I want to ask you to

1 speak loud.

2 PROSPECTIVE JUROR: I thought I was going
3 to speak to you alone. I had a knife pulled on me
4 years ago and I thought I was going to be killed.
5 And another time, somebody--

6 THE COURT: Are you saying you would have
7 trouble being fair as a juror?

8 PROSPECTIVE JUROR: Well, yes. And another
9 time, somebody was choking me and I couldn't breathe
10 and they wanted to punch my face in. I have been
11 traumatized by that. Very anxious.

12 I have two daughters. I am worried about them.

13 THE COURT: Heard enough?

14 MR. BOGDANOS: We have heard enough.

15 MR. KLEIN: Enough.

16 THE COURT: Moving right along.

17 (Prospective juror is excused at this time.)

18 COURT OFFICER: Juror entering.

19 THE COURT: Cindy Hicks, H-I-C-K-S.

20 You look like you want to serve.

21 PROSPECTIVE JUROR: I do but I can't
22 because every other day, I have school. Missing
23 three weeks is automatic failure.

24 THE COURT: You are in college.

25 PROSPECTIVE JUROR: Yes.

1 THE COURT: Where do you go to school?

2 PROSPECTIVE JUROR: Queens at York.

3 THE COURT: Every other day?

4 PROSPECTIVE JUROR: When I am not at
5 school, I work.

6 THE COURT: Where do you work?

7 PROSPECTIVE JUROR: Columbus Circle.

8 THE COURT: What are you studying?

9 PROSPECTIVE JUROR: Journalism.

10 THE COURT: Any questions?

11 MR. BOGDANOS: No judge.

12 MR. KLEIN: No.

13 THE COURT: I will excuse you.

14 (Prospective juror is excused at this time.)

15 COURT OFFICER: Juror entering.

16 THE COURT: Good afternoon, ma'am. Come up
17 and have this seat right here (indicating).

18 PROSPECTIVE JUROR: Good afternoon.

19 THE COURT: Can I see the ballet.

20 Yolanda Rivero, R-I-V-E-R-O.

21 THE COURT: How are you?

22 PROSPECTIVE JUROR: I am good.

23 THE COURT: Speak up so they can hear you.
24 Tell us whatever you want to tell us.

25 PROSPECTIVE JUROR: I am also an attorney.

1 I work for a small plaintiff side employment
2 litigation firm and I am one of three. My boss is
3 blind. So he relies on my colleague and I to review
4 documents. That's what we do.

5 Employment litigation involves like a lot of pay
6 stubs and things that can't be read by a computer
7 palm for my boss, as I said who was blind. I also
8 have an issue with the 20th because my brother, his
9 own court case and I have to attend that. So I am
10 just thinking that we have a pretty big case load
11 for a three lawyer firm and we have a couple of
12 motions that are due out.

13 MR. BOGDANOS: Nothing.

14 MR. KLEIN: No.

15 THE COURT: All right. You won your case
16 today. You are excused.

17 PROSPECTIVE JUROR: Thank you.

18 (Prospective juror excused at this time.)

19 COURT OFFICER: Juror entering.

20 THE COURT: If you would come on up. I
21 will take the ballet.

22 (Indicating)

23 THE COURT: This is Jill Romero,
24 R-O-M-E-R-O.

25 Ms. Romero nice and loud.

1 PROSPECTIVE JUROR: I will try. I have
2 laryngitis a little bit.

3 THE COURT: What is the problem?

4 PROSPECTIVE JUROR: My main concern is
5 about child care. I have you know a baby-sitter for
6 these next two days but beyond that, I don't have
7 anything secured. I am a single parent. So, you
8 know I probably could make arrangements but I don't
9 know that for sure.

10 THE COURT: Is it a financial issue or it's
11 just finding child care?

12 PROSPECTIVE JUROR: It is also somewhat of
13 a financial issue but it's just whether I put my
14 daughter in an after-school program. I just don't
15 know if she would be able to get in at this point.

16 THE COURT: It's not something that you
17 could get an answer for us by 2:15?

18 PROSPECTIVE JUROR: Unlikely.

19 THE COURT: Would you like to try?

20 PROSPECTIVE JUROR: I could try, yes.

21 THE COURT: Is that agreeable?

22 MR. BOGDANOS: Yes, and ma'am, thank you so
23 much. Thank you for your question before. You do
24 understand there will never be any sequestering so
25 that should resolve some of your issues if you won't

1 mind, trying to find out by 2:15. I know how hard
2 child care issues are to resolve. If you could, we
3 really admire you're trying to serve.

4 PROSPECTIVE JUROR: Okay.

5 (Prospective juror exits the courtroom at this
6 time.)

7 COURT OFFICER: Step up to the front
8 please.

9 THE COURT: This is first name Yari,
10 Y-A-R-I. Last name Reynoso, R-E-Y-N-O-S-O.

11 Swing around. Everything you say, they have to
12 hear.

13 PROSPECTIVE JUROR: Okay.

14 THE COURT: Do you have a problem serving
15 on the case?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: What is that problem and nice
18 and loud so they can hear.

19 PROSPECTIVE JUROR: I got into a motor
20 vehicle accident two months ago and I have been out
21 of work for two months and I am due back
22 September 20th and I have a doctor's appointment for
23 a follow-up for a broken hand, September 15th.

24 THE COURT: What sort of work do you do?

25 PROSPECTIVE JUROR: I work as an assistant

1 for a real estate firm.

2 THE COURT: How long have you been doing
3 that?

4 PROSPECTIVE JUROR: Two years.

5 THE COURT: If you told them, well, I won't
6 be able to come back to work until this trial will
7 be over, which is around the 26th--

8 PROSPECTIVE JUROR: I can lose my job.

9 THE COURT: You think that would happen?

10 PROSPECTIVE JUROR: Yes, because I have
11 been out of work for two and a half months.

12 THE COURT: They are already not happy. Is
13 that what you are saying?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Anyone?

16 MR. BOGDANOS: No.

17 MR. KLEIN: No.

18 THE COURT: All right, ma'am. You are
19 excused.

20 (Prospective juror excused at this time.)

21 THE COURT: Come on down.

22 This is John Emanuel, E-M-A-N-U-E-L. What is
23 the problem?

24 PROSPECTIVE JUROR: I got a commercial van
25 that I drive and if I don't work, I don't get paid.

1 Right now, it's pretty slow. So I even work on
2 weekends and I even work Labor Day, trying to make
3 ends meet.

4 THE COURT: It's a financial--

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Financial concern. Anyone?

7 MR. BOGDANOS: No.

8 MR. KLEIN: No.

9 THE COURT: I will excuse you,
10 Mr. Emmanuel.

11 (Prospective juror excused at this time.)

12 COURT OFFICER: Juror entering.

13 THE COURT: It's Georgia Chan, C-H-A-N. Go
14 ahead. Nice and loud.

15 PROSPECTIVE JUROR: Can you take off me
16 because my English no good.

17 THE COURT: You don't speak English well?

18 PROSPECTIVE JUROR: I don't want to make
19 decision.

20 THE COURT: How many years have you lived
21 there?

22 PROSPECTIVE JUROR: Long time; simple
23 conversation, okay.

24 THE COURT: What sort of work do you do?

25 PROSPECTIVE JUROR: Security.

1 THE COURT: Anyone?

2 MR. BOGDANOS: No.

3 MR. KLEIN: No.

4 THE COURT: Mr. Chan, you are excused.

5 PROSPECTIVE JUROR: Thank you, very much.

6 (Prospective juror exits the courtroom at this
7 time.)

8 THE COURT: Step up to the front.

9 If I may have the ballet, please. (indicating)

10 THE COURT: This is Oliver. Last name
11 G-A-B-B-A-Y.

12 Go ahead.

13 PROSPECTIVE JUROR: I have a job starting
14 early next week. I am a general contractor. It's
15 our biggest job yet. Just start the company a year
16 ago.

17 THE COURT: You might lose out on the job
18 opportunity.

19 PROSPECTIVE JUROR: Yes. There is only two
20 of us.

21 THE COURT: In fact, you won't be able to
22 go do the job?

23 PROSPECTIVE JUROR: I wouldn't be able to
24 do the job unless I am there.

25 THE COURT: What kind of job?

1 PROSPECTIVE JUROR: Renovations in an
2 apartment building.

3 MR. BOGDANOS: That's fine.

4 THE COURT: Anyone?

5 MR. KLEIN: No.

6 THE COURT: You are good to go.

7 PROSPECTIVE JUROR: Thank you.

8 (Prospective juror excused at this time.)

9 COURT OFFICER: Juror entering.

10 THE COURT: This is Marc, M-A-R-C. Last
11 name Iyeki, I-Y-E-K-I.

12 THE COURT: What's your concern about
13 serving on this case?

14 PROSPECTIVE JUROR: On August 31st, my
15 wife, she was feeling bad and she had dizziness and
16 numbness on her left side and so I went home. We
17 went to the hospital by ambulance. Called 911.
18 Medical people in my office told me to go home
19 immediately and she had a battery of tests that day.
20 She was -- eventually, she was discharged. But they
21 said it can't be ruled out, that it's possible that
22 she had like a mini stroke and so, I plan to if
23 something happens and there is a heightened chance
24 of something happening, I am going to be -- I would
25 hope to be on the blackberry and things like that.

1 That's the main thing. The other thing is that in
2 terms of business, my company -- and it's 9/11 time
3 and one of the companies will be coming visiting us
4 and they will be bringing over their top management
5 and they were the first company actually to list on
6 the company that I'm at after 9/11. They didn't get
7 to -- they had this big banner. They still have it
8 and they plan to put that up. I am the connection
9 between that time and this company.

10 That's just one of the other things but it's
11 mostly--

12 THE COURT: Anyone?

13 MR. BOGDANOS: No.

14 MR. KLEIN: No.

15 THE COURT: I am going to excuse you, sir.

16 (Prospective juror excused at this time.)

17 COURT OFFICER: Step up.

18 THE COURT: This is first name Yajaira,
19 Y-A-J-A-I-R-A. Last name Infante, I-N-F-A-N-T-E.

20 THE COURT: Nice and loud. They need to
21 hear what you have to say. Go ahead. The floor is
22 yours.

23 PROSPECTIVE JUROR: Sorry. Just don't
24 believe I could manage financially. Three weeks.

25 THE COURT: Your employer won't pay you?

1 PROSPECTIVE JUROR: I am not certain what
2 the law demand but I don't know that he would pay me
3 for three weeks.

4 THE COURT: What kind of work?

5 PROSPECTIVE JUROR: For a moving company.

6 THE COURT: Is it a big outfit?

7 PROSPECTIVE JUROR: It is. It is.

8 THE COURT: How long have you been there?

9 PROSPECTIVE JUROR: About 18 months.

10 THE COURT: Did you speak to your boss
11 about coming down here today?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: You think it would do it any
14 good to speak to him over lunch and tell him the
15 judge said I am stuck or do you know he is going
16 blow up?

17 PROSPECTIVE JUROR: I don't think that he
18 would have a problem with it. I just don't know.

19 THE COURT: Speak to your boss or anybody
20 whoever.

21 PROSPECTIVE JUROR: Sure.

22 THE COURT: And then you can let us know at
23 2:15 if there is a problem?

24 PROSPECTIVE JUROR: Okay.

25 THE COURT: Counsel?

1 MR. BOGDANOS: No.

2 MR. KLEIN: No.

3 THE COURT: Come back at 2:15.

4 (Prospective juror exits the courtroom at this
5 time.)

6 COURT OFFICER: Juror entering. Could step
7 up to the front.

8 THE COURT: Do you have your ballet?

9 PROSPECTIVE JUROR: Yes.

10 (Indicating)

11 THE COURT: This is first name Moise,
12 M-O-I-S-E-S. Last name Coma, C-O-M-A. Go ahead.
13 Speak in a loud voice so they can hear you.
14 Anything you want to say?

15 PROSPECTIVE JUROR: I suffer from anxiety.
16 Right now, I am having a little anxiety.

17 THE COURT: You think it would be difficult
18 to serve on a jury?

19 PROSPECTIVE JUROR: Well basically I have
20 mixed feelings about my decision because my brother
21 was convicted of attempted murder of a police
22 officer. And I am still emotionally in distress
23 about it.

24 THE COURT: I think the parties would
25 agree.

1 MR. BOGDANOS: Yes, Judge.

2 MR. KLEIN: Fine.

3 THE COURT: You are excused.

4 (Prospective juror excused at this time.)

5 COURT OFFICER: Step up to the front.

6 THE COURT: I will take the ballet. This
7 is Harrel, H-A-R-R-E-L. Last name Silverstein,
8 S-I-L-V-E-R-N-S-T-E-I-N, Silverstein.

9 PROSPECTIVE JUROR: I work for a small
10 office of five people. We are in the midst of
11 moving and kind of fighting for our survival. I was
12 hoping that I wouldn't have to make a commitment for
13 two and a half, three weeks.

14 THE COURT: What kind of work?

15 PROSPECTIVE JUROR: Advertising marketing.

16 THE COURT: It's a shaky time for the
17 company?

18 PROSPECTIVE JUROR: Yes. That's for sure.

19 THE COURT: Anyone?

20 MR. BOGDANOS: No.

21 MR. KLEIN: No.

22 THE COURT: I am going to excuse you. We
23 don't want you to get--

24 PROSPECTIVE JUROR: Okay.

25 (Prospective juror excused at this time.)

1 COURT OFFICER: Step up.

2 THE COURT: Have a seat. This is
3 Wilson Gomez, G-O-M-E-Z. Have a seat. I am going
4 to ask you to speak in a loud voice so those folks
5 can hear you. Go ahead.

6 What is your concern about serving on this case?

7 PROSPECTIVE JUROR: I am a student from
8 Westchester community college.

9 THE COURT: You are full-time?

10 PROSPECTIVE JUROR: Yes. I start my class
11 six o'clock over there. So I take the public
12 transportation. I don't think I have time to come
13 here and go there to my college. I live in
14 Manhattan. 145th.

15 THE COURT: You go everyday?

16 PROSPECTIVE JUROR: Three days a week.

17 THE COURT: From six to--

18 PROSPECTIVE JUROR: Six to 9:30. Six to
19 ten.

20 THE COURT: You take a bus up there?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: From where, Port Authority?

23 PROSPECTIVE JUROR: Yes.

24 I get the Metro North.

25 MR. BOGDANOS: I don't care, judge.

1 THE COURT: Sounds like a lot. Because I
2 take it even if he made you serve, you still try to
3 get up there to school?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: I will excuse you.

6 PROSPECTIVE JUROR: Thanks so much.

7 (Prospective juror excused at this time.)

8 THE COURT: We are doing pretty well. We
9 will pick it up at 2:15.

10 (LUNCHEON RECESS.)

11 THE COURT: Back on the record. Are both
12 sides ready to continue with jury selection?

13 MR. BOGDANOS: Yes, Judge.

14 THE COURT: We will begin with the jurors
15 who were picking up additional information over the
16 lunch break.

17 COURT OFFICER: Juror entering.

18 THE COURT: Ms. Infante, good afternoon.
19 Ms. Infante.

20 PROSPECTIVE JUROR: Good afternoon.

21 THE COURT: Did you call someone over
22 lunch? Nice and loud.

23 PROSPECTIVE JUROR: I do. I called my
24 supervisor. He says that he would prefer for me not
25 to stay out for that long. He says two to three

1 weeks is much too long.

2 THE COURT: How do you receive that? Do
3 you think that your job is in jeopardy?

4 PROSPECTIVE JUROR: I don't think that my
5 job would be in jeopardy. If anything, he didn't
6 say no and he didn't say yes and I questioned him
7 about two to three times. I said, does that mean
8 no, it's not possible? He said, I am just telling
9 you I would prefer --

10 THE COURT: Are you then willing to stay?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Any questions from counsel?

13 MR. KLEIN: No.

14 MR. BOGDANOS: Thank you, ma'am. No.

15 THE COURT: We all thank you very much.

16 And we will be bringing everybody in in a few
17 minutes.

18 (Prospective juror excused at this time .)

19 COURT OFFICER: Juror entering.

20 THE COURT: Ms. Romero.

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Have a seat. You were the
23 child care issue. Any luck?

24 PROSPECTIVE JUROR: Yes. I spoke with my
25 daughter's school and they said that they could put

1 her into the afterschool program and I could pick
2 her up at the end of the day.

3 THE COURT: So you are good to go?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Thank you, very much,
6 Ms. Romero.

7 MR. BOGDANOS: Thank you, ma'am.

8 (Prospective juror excused at this time .)

9 THE COURT: Mr. Hernandez.

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Have a seat. Any luck?

12 PROSPECTIVE JUROR: Yes. Actually I
13 verified with the company and they will pay all the
14 days.

15 THE COURT: So you are good?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Just rejoin the others. We are
18 bringing a few folks in.

19 PROSPECTIVE JUROR: Okay.

20 THE COURT: Mr. Abreu.

21 Have a seat. You are the barback.

22 THE COURT: What happened?

23 PROSPECTIVE JUROR: Yes. I could switch my
24 schedule around. It would be Monday through
25 Thursday, correct?

1 THE COURT: Correct.

2 PROSPECTIVE JUROR: I would work Friday
3 Saturday, Sunday but the thing is my issue is those
4 are -- Sunday is a very slow day and I think you
5 are, working now two shifts because they started
6 cutting guys because everything is slow. It's a new
7 restaurant. It's like I am still worried if I am
8 going to make my weekly budget to pay my loans, my
9 school loans and stuff so. I don't know.

10 THE COURT: You still have a concern. Is
11 that what you are saying?

12 PROSPECTIVE JUROR: Yes, definitely.

13 THE COURT: Even though they are willing to
14 shift the hours a little bit?

15 PROSPECTIVE JUROR: Yes.

16 If I can meet my weekly budget, I could do it
17 but right now, I don't know if I could. I don't
18 know. That's the only thing that's worrying me.

19 THE COURT: You normally would have four
20 days?

21 PROSPECTIVE JUROR: Two to three.

22 THE COURT: So Friday, Saturday and Sunday?

23 PROSPECTIVE JUROR: Really slow.

24 THE COURT: Counsel, any questions?

25 MR. BOGDANOS: Yes. We really admire your

1 candor with us and we admire you coming down here.
2 We have -- you know how important this is. Take it
3 all together. Understanding how crucial it is for
4 people like you to come and sit on a jury but also
5 knowing that you have got a budget to worry about,
6 putting all that together, this is really a question
7 that you can answer better than anyone in the
8 courtroom. Do you think you can give this case the
9 attention it deserves and do your duty, even if it
10 makes it -- might make it a little tough?

11 PROSPECTIVE JUROR: I think it will be a
12 little bit tough for me honestly, definitely.

13 MR. BOGDANOS: All right.

14 THE COURT: All right. Then I will excuse
15 you Mr. Abreu. But thank you very much for trying.

16 PROSPECTIVE JUROR: I would do it.

17 (Prospective juror excused at this time .)

18 THE COURT: Back on the record. Are both
19 sides ready for the panel?

20 MR. BOGDANOS: Yes.

21 MR. KLEIN: Yes.

22 THE COURT: May we have the jurors please.

23 COURT OFFICER: Jury entering. Jurors
24 entering.

25 THE CLERK: Case on trial continues.

1 People versus Mark Richardson.

2 THE COURT: Thank you, very much. Good
3 afternoon, ladies and gentlemen and welcome back.
4 And I want to thank all of all of you for
5 essentially volunteering your services for this
6 case. We appreciate that very very much. We did
7 not expect such a large number. Believe me.

8 So what we are going to do is go right into the
9 jury selection itself. Is there anyone doing this
10 for the first time?

11 (indicating.)

12 THE COURT: In any event, as most of you
13 probably know, the purpose of the jury selection
14 process is simply to make sure that in the end, we
15 wind up with a fair and impartial jury. Without
16 that, we can't have a fair trial. When you are
17 talking about a criminal case, fairness can be
18 boiled down to two essential questions. Can you be
19 fair to the prosecution and can you be fair to the
20 defense.

21 Those are the two sides here and each side is
22 entitled to a fair hearing from all of you.

23 The way it works is straightforward. I will
24 begin the questioning by asking a series of general
25 procedural questions for all of you. Some of you

1 screening questions really and some of you may be
2 excused during that portion of the questioning.
3 Those who remain will then be questioned
4 individually, first by me and then ultimately by the
5 attorneys.

6 Throughout all of this questioning, we are not
7 trying to embarrass anyone. We are not trying to
8 put you on the spot and there are no right or wrong
9 answers to any of the questions. Rather, this is a
10 chance for the attorneys to get to know you a little
11 bit and to try to figure out which of you happen to
12 be best suited for this particular case.

13 Now, some of the questions are somewhat personal
14 in nature. And that's true in every case. And it
15 may be as we go through this, that you will be asked
16 a question that you would rather not answer in front
17 of your fellow jurors. And if that happens to you,
18 just tell us at the time of the question. We will
19 then take your ballot. Put it on the side and bring
20 you in at the very end before the selections are
21 made so that you then have a chance to give your
22 answer to that particular question in a somewhat
23 more private setting. I say somewhat because the
24 answer is still given in open court. And indeed,
25 you should look upon this exercise as an open forum.

1 And by that, I mean we encourage you to speak out.

2 If you are selected, you will not be heard from
3 again until the very very end of the trial when you
4 render your verdict.

5 As some of you may know, there is a certain
6 amount of tradition to the jury selection process.
7 We've been picking juries this way in this basic
8 format now for way over a hundred years. So it is
9 something that works but it can only work if each
10 and every one of you participates fully. And I mean
11 by that is please give us your attention over the
12 next few hours. Yes, it does take a little bit of
13 time and try to answer these questions as best you
14 can.

15 One special request for the folks seated toward
16 the back of the courtroom, please try to speak up in
17 I a loud voice. I sometimes have trouble hearing
18 the folks in the back of the room.

19 If you want to stand up when giving a response,
20 that's fine. Also, for everyone it helps us if you
21 identify yourself when giving a response. That will
22 make for a much better record.

23 Now, speaking of identifying people, I am now
24 going to introduce the parties to you. I'm going to
25 ask them turn to around and give you a good look and

1 the reason is I want to make sure -- well, I want to
2 find out if any of you happen to recognize any of
3 them. I am going to start over here with our
4 prosecutor, Matthew Bogdanos.

5 MR. BOGDANOS: Good afternoon all, and
6 thank you.

7 THE COURT: Thank you and over here at the
8 defense table is Thomas Klein who is defense
9 counsel. Sarah Legler also a defense counsel and
10 over here is Mark Richardson.

11 Mr. Richardson, will you also rise and face the
12 group.

13 THE DEFENDANT: Hello.

14 THE COURT: Do any of you think you might
15 recognize any of them?

16 (No response .)

17 THE COURT: All right. Fast start. Let's
18 move on then. I'm going to start out now by telling
19 you a little bit about the case how know it's a
20 criminal case. I am going tell you the charges
21 involved and a brief description. I am going to
22 give you a brief description of the People's theory
23 of the case but before I do any of that, I want to
24 emphasize that what I'm about to tell you is not
25 evidence. And of course, you don't hear any

1 evidence during this part of the trial. These are
2 merely allegations or contentions of the prosecution
3 as you will learn the prosecution bears the burden
4 in a criminal case and I'm going through it so that
5 you will be in a better position to answer some of
6 the questions that may come up.

7 As I said, the top count is murder in the second
8 degree. There are actually two counts of murder in
9 the second degree. There is a count of sexual
10 abuse. There are two counts of robbery. One is
11 robbery in the first degree and one is robbery in
12 the second degree.

13 But all of the counts arise out of the same
14 alleged incident. It is the People's contention
15 that back on January 11, 2008, that this defendant
16 Mr. Richardson acting either alone or with at least
17 one other individual committed a robbery and a
18 sexual abuse of a woman named Helen Abbot.

19 It is further alleged that during the course of
20 the robbery and sexual abuse, that the defendant
21 again acting either alone or with at least one other
22 person murdered Ms. Abbot by stabbing her numerous
23 times and then strangling her with a chord.

24 Finally, it is alleged that this took place at
25 her apartment located in the Wagner Houses up on

1 124th Street and Second Avenue.

2 The defense denies these allegations. But in
3 any event, based on what you've just heard the
4 charges and the people's theory of the case, is
5 there anyone for any reason would find it difficult
6 to serve on the case as a fair and impartial juror?
7 If so raise your hand and we will take the response.

8 (No response.)

9 THE COURT: All right. Now, I will move
10 on. I'm going to read a list of names. It's a long
11 list. All of these people are potential witnesses
12 in the case. I am not saying they are all going to
13 testify and we stick to the schedule that we gave
14 you earlier. So don't be unnerved when you listen
15 to this list of names. We want to find out if any
16 of you happen to know any of these people or if you
17 think you might know.

18 But it is a long list. All right. Amy Dorcy,
19 criminalist. April Bailey who works at parole.
20 Detective Karen Eldridge. Cindy Rodriguez, another
21 criminalist. Two, Craig Hummer and Craig O'Connor.
22 Detective David Hernandez. Sergeant Darwood Daniel.
23 Detective Donna Torres. Sergeant Elvis Sierra.
24 Police officer Eric Caracato. Sergeant
25 Frankenstein, no first name. Detective Bernard

1 Demurro, Dr. Jason Graham. Jean Alfred Frederick
2 with the ME's office. Police officer Jessica Ramos
3 Sabalos, Officer Jose Rivera, Officer Louise Mehia,
4 Sergeant Margaret Gulliamelo Foster.

5 Detective Marc Worthington. New York District
6 Attorney's office Michael Manion. Neville Vanmainen
7 from the DA's office. Norman Marron criminalist.
8 Sergeant Lance Camramenia. Detective Regina Burgos.

9 EMT named Ron Lee. Detective Rubin Enriquez.
10 Criminalist Sarah Phillips. Officer Sean Amon.
11 Lieutenant Roman.

12 Detective Gary Signias. ADA Assistant DA
13 Shirley Irick. Siren Holly and. Another EMT
14 civilians as follows. Anthony Hall. Desiree Allen.
15 Cheryl Abbot. Christine DeDominico. Christine
16 Ortiz. Christopher Thel. Daniella Keller, Debra
17 Sisky. Frey Richardson, Marry Hope, Richard
18 Carbone, Richard Woitkowiag, W-O-I-T-K-O-W-I-A-Q.

19 Thomas Theil. Erica Gracetti. Frank Ricata.
20 Henry Enright. Justin Carol, Kendall Matthews,
21 Maria Duncan, William Dun, Sidney Gotler,
22 Patrick Green, Michael Key, Daryl King,
23 Matthew Lacks, Barbara Medina, Jose Melendez,
24 Derrick Richardson, Edwin Santiago, Javier Vega,
25 Terrell Whitaker, Gregory white head, is a PWRAOEPB

1 I can't bond, Tracy Braithwaite, Peter Richardson,
2 Esther Calli, Juan Perez, Marika Richardson. Now we
3 are back to some of the police officers. Sergeant
4 Thomas Verbrese, criminalist Troy Holder. Detective
5 Jerry Rivera, Detective Ray Watts, Assistant DA
6 Kerry O'Connell, Detective Ray Brennan, Criminalist
7 Meredith Gitter, Detective Kevin Flynn, Detective
8 Kevin Sherlock, -- I am sorry. Lieutenant Kevin
9 Sherlock and Detective Joseph Lifrenta.

10 Does anybody want me to read it again? Did any
11 of you recognize any of those names.

12 (No response.)

13 THE COURT: All right. As I said, I'm not
14 suggesting that all of those people are going to
15 testify. We have already given you the schedule.
16 There have been no changes obviously since this
17 morning. If anyone however wants to raise a new
18 scheduling concern with us, we can take that now
19 before we move on to something else. All right.

20 I gave you a location a few minutes ago. Namely
21 124th Street and Second Avenue, an apartment in the
22 Wagner Houses. In every criminal case, we have a
23 standing rule that the jury once selected is not
24 permitted to go out and visit any of the locations
25 that come up during the course of the trial. So we

1 must ask all of you to give us an assurance that you
2 will stay away from those buildings, during the
3 course of this trial.

4 Is there anyone who would be unable to give us
5 such an assurance? Yes, sir?

6 PROSPECTIVE JUROR: That's the area around
7 where I live.

8 THE COURT: That's fine. Knowledge of the
9 neighborhood or living nearby does not preclude you
10 from serving unless you think that that would
11 somehow make it difficult for you to be fair?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: It would make it difficult?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: You are saying now that this is
16 not the right case for you?

17 PROSPECTIVE JUROR: It's not the right case
18 for me.

19 THE COURT: Your name?

20 PROSPECTIVE JUROR: Maribelis Bennett.

21 THE COURT: Mr. Bennett, we will find your
22 ballet. We have already done so. You are excused
23 and the officer will explain to you where to go.
24 Thank you very much?

25 PROSPECTIVE JUROR: All right.

1 (Prospective juror excused at this time .)

2 THE COURT: Is there anyone who does not
3 speak English well enough to do this? Yes, ma'am?

4 PROSPECTIVE JUROR: I am -- I speak
5 English. I don't know.

6 THE COURT: What is your name?

7 PROSPECTIVE JUROR: Anna Maria Hernandez.

8 THE COURT: Just one moment while we find
9 the ballet.

10 (Brief pause)

11 THE COURT: You are excused ma'am. Thank
12 you very much.

13 (Prospective juror exits the courtroom at this
14 time.)

15 THE COURT: Is there anyone else on that
16 point? Is there anyone with a health concern
17 something that might affect your ability to serve on
18 the case or simply a medical appointment come up for
19 example that might interfere with our trial
20 schedule?

21 (Indicating).

22 THE COURT: A couple of people?

23 PROSPECTIVE JUROR: I just want to say
24 something. I consider myself to speak English but
25 sometimes when people have different accents or

1 speak too fast, sometimes--

2 THE COURT: Have you been able to follow me
3 so far.

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: A hundred percent?

6 PROSPECTIVE JUROR: Yes until now, yes.

7 THE COURT: Did I say something that you
8 had trouble with?

9 PROSPECTIVE JUROR: No. At times I get
10 lost sometimes. I am honest with myself.

11 THE COURT: Are you comfortable speaking in
12 English in the jury room when the jury is
13 deliberating? Can you express your point of view in
14 English to the other jurors?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: No problem?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Then you should stay. Your
19 name just for the record.

20 PROSPECTIVE JUROR: Louise Danyagos
21 (phonetic).

22 THE COURT: Going back to health concern,
23 there was a gentleman.

24 PROSPECTIVE JUROR: Juan Baptista. I have
25 an appointment later on this month, the 21st. It's

1 been for quite awhile.

2 THE COURT: Morning or afternoon?

3 PROSPECTIVE JUROR: Give me one second.

4 1:40 p.m.

5 THE COURT: If I said to you don't worry,
6 you will make that appointment you will be willing
7 to stay?

8 PROSPECTIVE JUROR: No problem.

9 THE COURT: We will take care of it. Yes,
10 sir?

11 PROSPECTIVE JUROR: Keith Dawson. I also
12 have an appointment the 22nd of September.

13 THE COURT: You have an appointment?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: In the morning or afternoon?

16 PROSPECTIVE JUROR: In the morning.

17 THE COURT: Is it something that can be
18 rescheduled easily or no?

19 PROSPECTIVE JUROR: Don't think so.

20 THE COURT: Again, how long do you think
21 that one will be?

22 PROSPECTIVE JUROR: It's on the 22nd.

23 THE COURT: The whole day or just an hour
24 or two?

25 PROSPECTIVE JUROR: Couple of hours.

1 THE COURT: What time does it start?

2 PROSPECTIVE JUROR: Around 9:30.

3 THE COURT: We will accommodate you as
4 well, sir.

5 (Indicating)

6 THE COURT: Please state your name.

7 PROSPECTIVE JUROR: Dawson.

8 THE COURT: Anyone else with a health
9 concern?

10 (No response .)

11 THE COURT: I have one more preliminary
12 question but it's a big one. It's as follows: If
13 you are selected as a juror in this case, first
14 thing that we will be asking you to do is to take an
15 oath. And in that oath, you will be making a
16 promise to both sides that you will be a fair and
17 impartial juror. So if you know right now that you
18 would hesitate to take that oath for any reason,
19 please say so.

20 (Indicating)

21 THE COURT: Yes, ma'am. In the middle?

22 PROSPECTIVE JUROR: My name is Vancourt. I
23 am sorry. That's going to be hard to look up. And
24 I would hesitate to -- given the particulars that I
25 know of the case, I would hesitate.

1 THE COURT: Then I will excuse you right
2 now ma'am. Thank you, very much. We will find--

3 (Prospective juror excused at this time.)

4 THE COURT: This is not the only time you
5 can say I would hesitate to take the oath. As we go
6 through this, you might hear a question or you might
7 be -- you might be asked a question that prompts
8 something or triggers something and you can always
9 change your position.

10 I am not saying that no one else will ever be
11 excused from this jury but if you know there is
12 something about yourself that would make it
13 difficult to take the oath, you can tell us now.
14 Very very good. All right.

15 What we are now going to do is our clerk over
16 here is going to take all of the remaining ballots.
17 Put them in the wheel on his desk and then draw 16
18 ballots at random. We will ask those 16 to take
19 assigned seats over here in the jury box and the
20 questions will focus on that group of 16.

21 There will be many rounds. If you are not in
22 part of the first round, don't go anywhere because
23 there will be a second and probably a third round as
24 well. I am going to ask all of you folks, please
25 take a seat or stand out there for a moment until we

1 fill the box.

2 THE CLERK: Prospective juror, number one.

3 I am sorry if I mispronounce anybody's name, Tracy

4 Chevel, C-H-E-V-E-L.

5 Prospective juror number two, Daniel Celio,

6 C-E-L-I-O.

7 Prospective juror number three, Christina

8 Wildenstein.

9 Michael Palumbo, P-A-L-U-M-B-O.

10 Laura Vincent. V-I-N-C-E-N-T.

11 Number three is W-I-L-D-E-N-S-T-E-I-N.

12 Prospective juror number six is Shaniqua Austin,

13 A-U-S-T-I-N.

14 Prospective juror number seven, Yajaira,

15 Y-A-J-A-I-R-A. Infante, I-N-F-A-N-T-E.

16 Prospective juror number eight, Paul Breza,

17 B-R-E-Z-A.

18 Prospective juror number nine, Sarah Clagett,

19 C-L-A-G-E-T-T.

20 Prospective juror number ten, Allison Wasserman,

21 W-A-S-S-E-R-M-A-N.

22 Prospective juror number 11, Paulina Blank,

23 B-L-A-N-K.

24 Prospective jurors number 12, Jose Minaya,

25 M-I-N-A-Y-A.

1 Prospective juror number 13,
2 Francisco Hernandez.

3 Prospective juror number 14, Stephen Sloan,
4 S-L-O-A-N.

5 Prospective juror number 15, Jill, J-I-L-L.
6 Romero, R-O-M-E-R-O.

7 Prospective juror number 16, Darcie,
8 D-A-R-C-I-E. D' Augusta, D-A-U-G-U-S-T-A.

9 Number six is S-H-A-N-I-Q-U-A. Last name
10 A-U-S-T-I-N.

11 Number four is P-A-L-U-M-B-O.

12 Number eight is B-R-E-Z-A.

13 THE COURT: Ladies and gentlemen, I am
14 going to begin by going around and asking each of
15 you a series of questions about yourselves. These
16 questions are designed to provide some personal
17 information about you to the parties. So it's like
18 a thumbnail sketch of who you are.

19 The first category we call living arrangements.
20 By that we mean do you live alone or with someone
21 else.

22 Number two, category number two is occupation.
23 What do you do for a living.

24 Number three is neighborhood. Which section of
25 Manhattan do you live in. Number four is

1 educational background. Highest level of education
2 will do.

3 Number five is called spare time activities.
4 What do you like to do outside of work.

5 Number six is organizations, that is, are you
6 involved with any organizations at this time,
7 professional organizations, religious, social,
8 political and so on.

9 And then finally, category number seven, current
10 events. Do you keep up with current events and if
11 so, how do you do it. We are going to go right down
12 the line starting with you Ms. Chevel. You won the
13 lottery this afternoon.

14 So do you live alone or with someone else?

15 PROSPECTIVE JUROR: I live with my
16 boyfriend.

17 THE COURT: Which neighborhood is that?

18 PROSPECTIVE JUROR: Upper westside.

19 THE COURT: Are you employed?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: What do you do?

22 PROSPECTIVE JUROR: I am an executive
23 assistant in finances investment banking.

24 THE COURT: What is your highest degree?

25 PROSPECTIVE JUROR: I have a bachelor

1 degree.

2 THE COURT: What do you like to do in your
3 free time?

4 PROSPECTIVE JUROR: Gym physical activity,
5 hiking.

6 THE COURT: Are you active in any
7 organizations?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Do you keep up with current
10 events?

11 PROSPECTIVE JUROR: Yes, I do.

12 THE COURT: How do you do that?

13 PROSPECTIVE JUROR: Read a couple of papers
14 on line everyday.

15 THE COURT: Thank you, Ms. Chevel.

16 PROSPECTIVE JUROR: You're welcome.

17 THE COURT: Next is -- if I mispronounce a
18 name, please help me.

19 Mr. Celio, do you live alone or with someone
20 else?

21 PROSPECTIVE JUROR: I live with my sister.

22 THE COURT: Which neighborhood?

23 PROSPECTIVE JUROR: East Village.

24 THE COURT: Occupation?

25 PROSPECTIVE JUROR: Programer.

1 Self-employed.

2 THE COURT: Highest degree?

3 PROSPECTIVE JUROR: Two years of college.

4 THE COURT: Spare time activities.

5 PROSPECTIVE JUROR: Drinking, traveling.

6 THE COURT: Of course not during jury duty.

7 Organizations?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Do you keep up with current
10 events?

11 PROSPECTIVE JUROR: Yes.

12 PROSPECTIVE JUROR: Internet. I read a lot
13 of New York Times, stuff like that.

14 THE COURT: Would you say you check in
15 everyday?

16 PROSPECTIVE JUROR: Yes. Several times a
17 day.

18 THE COURT: Thank you, sir.

19 Ms. Wildenstein?

20 PROSPECTIVE JUROR: Married.

21 THE COURT: Do you want to just volunteer?

22 PROSPECTIVE JUROR: Neighborhood?

23 THE COURT: Yes.

24 PROSPECTIVE JUROR: Upper east side.

25 THE COURT: Educational background?

1 PROSPECTIVE JUROR: High school graduate.

2 THE COURT: Interests hobbies?

3 PROSPECTIVE JUROR: Physical sports,

4 crafts.

5 THE COURT: Organizations?

6 PROSPECTIVE JUROR: Pastor.

7 THE COURT: Which is what?

8 PROSPECTIVE JUROR: It's actually French

9 medical organization, Louis Paster (phonetic).

10 THE COURT: Okay. I have heard of him.

11 Current events?

12 PROSPECTIVE JUROR: Yes. Newspapers and

13 TV.

14 THE COURT: Everyday?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Did I ask you your occupation

17 or did I forget?

18 PROSPECTIVE JUROR: No occupation.

19 THE COURT: Do you have work experience in

20 a particular field?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Okay.

23 Mr. Polumbo?

24 PROSPECTIVE JUROR: Hi.

25 THE COURT: You live alone?

1 PROSPECTIVE JUROR: I live alone.

2 THE COURT: Neighborhood?

3 PROSPECTIVE JUROR: Gramercy Park avenue.

4 THE COURT: Occupation?

5 PROSPECTIVE JUROR: Office manager.

6 THE COURT: Highest degree?

7 PROSPECTIVE JUROR: Masters degree.

8 PROSPECTIVE JUROR: Fine arts.

9 THE COURT: Interests?

10 PROSPECTIVE JUROR: Photography, reading,
11 drawing.

12 THE COURT: Organizations?

13 PROSPECTIVE JUROR: None.

14 THE COURT: Current events?

15 PROSPECTIVE JUROR: Yes. Internet
16 newspaper, television.

17 THE COURT: All the time?

18 PROSPECTIVE JUROR: All the time.

19 THE COURT: Thank you.

20 Ms. Vincent.

21 PROSPECTIVE JUROR: Yes. I live with my
22 boyfriend in the West Village. I am in investment
23 banking.

24 THE COURT: Highest degree?

25 PROSPECTIVE JUROR: Four year college.

1 THE COURT: Interests hobbies?

2 PROSPECTIVE JUROR: Running traveling,
3 reading. I am obviously -- I watch Bloomberg all
4 day.

5 THE COURT: You keep up with what's going
6 on?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Are you involved with any
9 organizations?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Thank you, Ms. Vincent.
12 Ms. Austin?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Do you live alone? You look
15 awfully young to do that?

16 PROSPECTIVE JUROR: I have been on my own
17 but I live with my parents.

18 THE COURT: Neighborhood?

19 PROSPECTIVE JUROR: Upper westside.

20 THE COURT: Are you working or going to
21 school?

22 PROSPECTIVE JUROR: Going to school.

23 THE COURT: What year?

24 PROSPECTIVE JUROR: One year.

25 THE COURT: I am sorry?

1 PROSPECTIVE JUROR: First year.

2 THE COURT: Where do you go to school?

3 PROSPECTIVE JUROR: I am going school at

4 BMCC.

5 THE COURT: What do you like to do in your
6 free time?

7 PROSPECTIVE JUROR: Singing, song writing.

8 THE COURT: Do you belong to any
9 organizations?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Do you try to keep up with
12 current events?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: How do you do that?

15 PROSPECTIVE JUROR: Newspaper.

16 THE COURT: Everyday?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: All right. Thank you ma'am.
19 Ms. Infante?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Live alone?

22 PROSPECTIVE JUROR: No. I live with my
23 partner. High Bridge section near Washington
24 Heights.

25 MR. BOGDANOS: I am sorry. I apologize

1 Ms. Infante, I couldn't hear that.

2 THE COURT: A little louder.

3 PROSPECTIVE JUROR: I live with my partner
4 in Washington near High Bridge. I am a third year
5 undergrad student. I am also a sales associate for
6 I a moving company. Organization, I volunteer for
7 Learning Allie.

8 THE COURT: Free time?

9 PROSPECTIVE JUROR: Free time, I play
10 dominos, tennis. I don't keep up with current
11 events much.

12 THE COURT: What's that means once or twice
13 a week?

14 PROSPECTIVE JUROR: Maybe once or twice a
15 week.

16 THE COURT: Thank you, Ms. Infante.

17 Mr. Breza.

18 PROSPECTIVE JUROR: I am single. Live
19 alone upper westside. I am a producer in corporate
20 events.

21 THE COURT: Highest degree?

22 PROSPECTIVE JUROR: Four years of college.
23 I don't have any interests outside of work. I work
24 all the time. No organizations.

25 THE COURT: Current events?

1 PROSPECTIVE JUROR: I am usually on line
2 all day and television at night.

3 THE COURT: Thank you, Mr. Breza.
4 Ms. Clagett, you live alone?

5 PROSPECTIVE JUROR: I am engaged; live on
6 the upper westside.

7 THE COURT: Occupation.

8 PROSPECTIVE JUROR: Television producer.

9 THE COURT: Highest degree?

10 PROSPECTIVE JUROR: Bachelors degree.

11 THE COURT: Free time?

12 PROSPECTIVE JUROR: I like to cook and
13 travel and play tennis.

14 THE COURT: Partner over here,
15 organizations?

16 PROSPECTIVE JUROR: I don't belong to any
17 outside organizations.

18 THE COURT: Obviously you keep up with
19 current events?

20 PROSPECTIVE JUROR: On a daily basis. I do
21 that obviously for work.

22 THE COURT: Right. Thank you.
23 Ms. Wasserman?

24 PROSPECTIVE JUROR: I live with my husband
25 in Tribeca. I work for government sponsor health

1 insurance company. I am a manager of analysts.

2 Free time, I like to travel and eat food.

3 THE COURT: Highest degree?

4 PROSPECTIVE JUROR: I have a bachelors of
5 science.

6 THE COURT: Organizations?

7 PROSPECTIVE JUROR: I belong to the
8 National Authentic Trainers Association.

9 THE COURT: Current events?

10 PROSPECTIVE JUROR: Daily news on line and
11 TV.

12 THE COURT: Thank you.

13 Ms. Blank.

14 PROSPECTIVE JUROR: I live alone on the
15 upper east side. I have an associates degree in
16 culinary arts. I am a pastry chef. I belong to the
17 Association of Women's Chef restaurant and tours. I
18 like to cook read and travel. That was the last
19 one?

20 THE COURT: Current events?

21 PROSPECTIVE JUROR: I keep up. I get the
22 New York Times everyday.

23 THE COURT: Thank you. Very good.

24 Mr. Minaya?

25 PROSPECTIVE JUROR: Live with my mother and

1 my brother.

2 THE COURT: Neighborhood?

3 PROSPECTIVE JUROR: Spanish Harlem.

4 THE COURT: Are you working or going to
5 school?

6 PROSPECTIVE JUROR: None.

7 THE COURT: Neither one. Are you looking
8 for work in a particular field?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Do you have any kind of work
11 experience?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Then you have lots of free
14 time. What do you like to do?

15 PROSPECTIVE JUROR: Go on line, play
16 baseball.

17 THE COURT: Do you belong to any
18 organizations?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Do you keep up with current
21 event?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Not at all?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Again, there are no right or

1 wrong answers. We are just trying to get a little
2 information from you. Thank you.

3 Mr. Hernandez, we know a little bit about you
4 but go ahead.

5 PROSPECTIVE JUROR: Married. Live uptown
6 Washington Heights. Have a bachelor degree, read
7 the New York Times every morning.

8 THE COURT: You work in IT?

9 PROSPECTIVE JUROR: Yes.

10 Current events I read the New York Times every
11 morning. Free time reading and travel.

12 THE COURT: Did you mention organizations?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Thank you.

15 Mr. Sloan.

16 PROSPECTIVE JUROR: Yes. I live alone in
17 Chelsea. I work for an investment bank as a project
18 manager. I have an NBA. No organizations. I watch
19 the news everyday.

20 THE COURT: In your free time?

21 PROSPECTIVE JUROR: Theater, opera, ballet,
22 that kind of stuff.

23 THE COURT: Thank you.

24 Ms. Romero?

25 PROSPECTIVE JUROR: I am divorced. I live

1 with my two children. My son is 13 and my daughter
2 is nine. I live in Morningside Heights Harlem. I
3 am a licensed real estate sales person.

4 I try to keep up with current events styles.
5 It's difficult. When I do, I read the free
6 newspapers and I listen to the local news. And I
7 belong to Man R, which is a real estate board and
8 also two actors equity and screen actors Gill.

9 THE COURT: Your highest level of
10 education?

11 PROSPECTIVE JUROR: I have a masters in
12 fine arts.

13 THE COURT: Thank you, ma'am.

14 Finally, Ms. D'Augusta?

15 PROSPECTIVE JUROR: I live with my cousin
16 and my boyfriend in the upper westside. I have a
17 masters degree in Economics and finances. I work
18 right now at a bank as an analyst. I keep up with
19 current events for work and--

20 THE COURT: Your spare time?

21 PROSPECTIVE JUROR: Spare time, read run, .

22 THE COURT: Any organizations?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Okay. Thank you. And now
25 ladies and gentlemen, I have a series of general

1 questions for all 16 of you. Those who do answer
2 yes, can expect a few follow-up questions as well to
3 any of these questions. The first one involves
4 prior jury experience.

5 That is have any of you had occasion to serve on
6 a criminal case in the past or civil or even the
7 Grand Jury, prior jury experience anyone?
8 (Indicating).

9 THE COURT: God quite a few. Mr. Breza,
10 trial or Grand Jury?

11 PROSPECTIVE JUROR: Grand Jury.

12 THE COURT: How many years ago was that?

13 PROSPECTIVE JUROR: Just about eight years
14 ago.

15 THE COURT: Did you hear all sorts of
16 different cases.

17 PROSPECTIVE JUROR: No. They were mostly
18 all drug cases.

19 THE COURT: The narcotics, Grand Jury?

20 PROSPECTIVE JUROR: Correct.

21 THE COURT: That was here in Manhattan?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Thank you.

24 Mr. Sloan?

25 PROSPECTIVE JUROR: I have been on two jury

1 trials.

2 THE COURT: Criminal or civil?

3 PROSPECTIVE JUROR: One of each.

4 THE COURT: All right. Let's start with
5 the criminal case. Without telling us what the
6 verdict in that case might have been, did you have a
7 chance to deliberate?

8 PROSPECTIVE JUROR: I was an alternate. I
9 was dismissed before they deliberated.

10 THE COURT: How many years ago?

11 PROSPECTIVE JUROR: About eight I would
12 say.

13 THE COURT: Do you remember any of the
14 charges?

15 PROSPECTIVE JUROR: Yes, armed robbery.

16 THE COURT: A robbery case?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: You said there was a civil
19 matter?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Was that before the criminal
22 case?

23 PROSPECTIVE JUROR: Yes. I think so. It
24 was around six or eight years ago too.

25 THE COURT: Do you remember if you

1 deliberated in that one?

2 PROSPECTIVE JUROR: We did.

3 THE COURT: Did the jury come to a
4 decision?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Thank you.

7 There were others, Ms. Clagett?

8 PROSPECTIVE JUROR: About six years ago, I
9 was an alternate on a criminal case.

10 THE COURT: So again you did not
11 deliberate?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Do you remember any of the
14 charges?

15 PROSPECTIVE JUROR: No.

16 THE COURT: What kind of case it was?

17 PROSPECTIVE JUROR: Not really.

18 THE COURT: It's all right. I forget them
19 too and I am right here. Anyone else? Mr. Polumbo?

20 PROSPECTIVE JUROR: Criminal case. It was
21 about eight or nine years ago and it was a drug
22 case.

23 PROSPECTIVE JUROR: We deliberated.

24 THE COURT: We don't need to know what the
25 verdict was but did you reach one? Was the jury

1 able to do that?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Ugly word, a hung jury?

4 PROSPECTIVE JUROR: Hung jury.

5 THE COURT: It happens.

6 THE COURT: Anyone else on jury service?

7 (No response .)

8 THE COURT: Next question, conflicts with
9 the law. Have you or anyone close to you ever had a
10 conflict with the law? By that, we mean some sort
11 of an arrest.

12 Ms. Infante?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: You or someone close to you?

15 PROSPECTIVE JUROR: Someone close to me.

16 THE COURT: Is the case still going on?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Is it here in Manhattan?

19 PROSPECTIVE JUROR: In the Bronx.

20 THE COURT: Have you attended any of the
21 court proceedings?

22 PROSPECTIVE JUROR: No. That would have
23 been today.

24 THE COURT: There was a first proceeding
25 today?

1 PROSPECTIVE JUROR: I think so.

2 THE COURT: Finally, is there anything
3 about that case that would somehow make it hard for
4 you to be fair and impartial in this case?

5 PROSPECTIVE JUROR: No.

6 THE COURT: So you can promise both sides
7 that you will be fair and true?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Thank you.

10 Mr. Breza?

11 PROSPECTIVE JUROR: I don't mention this
12 much my brother-in-law.

13 THE COURT: If there is something you want
14 to tell us about later on.

15 PROSPECTIVE JUROR: It's all right. I
16 don't often tell people but my brother-in-law was
17 convicted of murder about 15 years ago.

18 THE COURT: Was there a trial in that case?

19 PROSPECTIVE JUROR: There was a trial.

20 THE COURT: Did you attend any of the
21 proceedings?

22 PROSPECTIVE JUROR: I did not.

23 THE COURT: Was it here in Manhattan?

24 PROSPECTIVE JUROR: North eastern
25 Pennsylvania.

1 THE COURT: Again, our only concern is it
2 whether something about that case would affect you
3 here. Can you promise the parties that you will be
4 fair and that will not affect you?

5 PROSPECTIVE JUROR: I would try to be very
6 very fair. Yes.

7 THE COURT: But do you hesitate in some way
8 to give them that promise?

9 PROSPECTIVE JUROR: Yes, because I have
10 never --i haven't thought about this in so many
11 years.

12 THE COURT: There is no right or wrong
13 answer?

14 PROSPECTIVE JUROR: I would try my hardest.

15 THE COURT: Keep thinking about it and I am
16 sure they will ask you follow-up questions about
17 that.

18 Anyone else on conflicts?

19 (No response.)

20 THE COURT: Next question, law enforcement.
21 Do any of you happen to know anyone who works in law
22 enforcement? Family members, friends or even a
23 acquaintances? Mr. Breza?

24 PROSPECTIVE JUROR: I have two cousins who
25 were policeman, retired now and an uncle who was a

1 policeman.

2 THE COURT: Locally or somewhere else?

3 PROSPECTIVE JUROR: In New Jersey.

4 THE COURT: Thank you.

5 Ms. Infante.

6 PROSPECTIVE JUROR: I have a friend who is
7 a police officer in Brooklyn.

8 THE COURT: Thank you.

9 Mr. D'Augusta?

10 PROSPECTIVE JUROR: I have a friend who is
11 a police officer in Brooklyn and an uncle who is a
12 state trooper in Massachusetts.

13 THE COURT: Mr. Sloan?

14 PROSPECTIVE JUROR: My God daughter is a
15 police cadet in Kansas.

16 THE COURT: Thank you.

17 Ms. Wasserman?

18 PROSPECTIVE JUROR: My brother is in
19 training to be a police officer in Pennsylvania.

20 THE COURT: Ms. Wildenstein?

21 PROSPECTIVE JUROR: My husband police -- is
22 an X policeman in his job.

23 THE COURT: All right. Thank you.

24 Anyone else law enforcement, last question,
25 victim of a crime. Have you or anyone close to you

25 THE COURT: Going back a ways. Thank you.

1 Others crime victims, Mr. Sloan?

2 PROSPECTIVE JUROR: I was mugged about 20
3 years ago.

4 THE COURT: In Manhattan?

5 PROSPECTIVE JUROR: In New York City, yes.

6 THE COURT: Reported?

7 PROSPECTIVE JUROR: It was reported went to
8 jury, the whole thing.

9 THE COURT: There was an arrest you
10 actually testified at a trial?

11 PROSPECTIVE JUROR: Yes, at a Grand Jury.

12 THE COURT: Is this anything about that
13 experience that would affect you here? I know it's
14 a long time ago.

15 PROSPECTIVE JUROR: No. I don't think so.

16 THE COURT: Thank you. Anyone else?

17 (No response.)

18 THE COURT: All right. Then we will move
19 on to an entirely different topic. I am going to go
20 over with you in summary fashion some of the
21 fundamental principles of criminal law. If you are
22 selected, obviously there will be much more detailed
23 instructions about all of all of this later on
24 during the trial.

25 In this case ladies and gentlemen, as in every

1 criminal case, the accused or the defendant and here it's
2 Mr. Richardson must be presumed by you to be innocent.
3 He is here today because an indictment has been filed
4 against him but the indictment itself is not proof of
5 anything. An indictment is simply by the means by which
6 a defendant is informed of the charges against him and is
7 then brought into court to face those charges.

8 But as he sits there now, he must be afforded the
9 presumption of innocence. It is up to the People, that
10 is the DA's office to convince you beyond a reasonable
11 doubt that the defendant is guilty.

12 The burden in a criminal case is solely on the
13 prosecution. The defense has no burden to do anything.
14 Is there anyone who has any difficulty accepting and
15 following these fundamental principals or any questions
16 about them?

17 (No response.)

18 THE COURT: Here is another one also very
19 important: Under our system, a defendant in a
20 criminal case is not obligated to take the witness
21 stand. Thus, if Mr. Richardson does not testify at
22 this trial, you may not draw any inference
23 unfavorable to him from that fact. If he doesn't
24 testify, you can't hold it against him.

25 Is there anyone who would have any difficulty

1 accepting and following this principle?

2 (no response .)

3 THE COURT: Does anyone have anymore real
4 intellectual opinion or belief which might conflict
5 with any of these rules or which might somehow slant
6 your approach to the case? Here we are looking for
7 moral or ethical concerns. Anyone?

8 (No response .)

9 THE COURT: All right. Making rapid
10 progress at least as far as I am concerned. Just a
11 few more questions. One involves police testimony
12 and there will be a substantial amount of police
13 testimony at this trial at least that's my
14 understanding.

15 The question is this: Will you be able to weigh
16 the testimony of a police officer in the same way
17 that you would weigh the testimony of a civilian
18 witness? And that means essentially that no greater
19 or lesser weight is to be given to the testimony
20 simply because it is coming from a police officer.
21 Is there anyone who would be unable to follow such
22 an instruction?

23 (No response .)

24 THE COURT: No one.

25 If after hearing all of the evidence in the case, you

1 are convinced that the defendant's guilt has been proved
2 beyond a reasonable doubt, would you hesitate for any
3 reason to vote guilty?

4 (No response .)

5 THE COURT: And then the reverse, if you
6 find after hearing the evidence that you do have a
7 reasonable doubt, would you hesitate to vote not
8 guilty?

9 Those are the two verdicts, obviously, you will
10 be asked to consider at the end of the trial.

11 And finally, is there anything else anything you
12 want to raise concerning your qualifications to
13 serve on this case? So any topic whatsoever anyone?
14 Mr. Celio.

15 PROSPECTIVE JUROR: I was diagnosed with
16 ADHD. I kind of trail off here and there but--

17 THE COURT: Have you been able to
18 concentrate so far?

19 PROSPECTIVE JUROR: Yes. Sure, I guess.

20 THE COURT: Jurors are allowed to take
21 notes. Would that be of assistance to you?

22 PROSPECTIVE JUROR: I guess.

23 THE COURT: You have never done this before
24 I take it, so you are somewhat concerned?

25 PROSPECTIVE JUROR: I hear three weeks and

1 I say, oh, man. Just letting you guys know that.

2 THE COURT: Thank you for telling us that.

3 I am not sure but they may ask you some additional
4 questions.

5 Anyone else before I get a chance to sit down?

6 (No response .)

7 THE COURT: Then I thank you all very very
8 much. The attorneys will now ask a few questions.
9 Since the People have the burden Mr. Bogdanos gets
10 to ask his questions first.

11 MR. BOGDANOS: Thank you, your Honor.
12 Ladies and gentlemen, thank you. Thank you. Thank
13 you. We bring you down out of your busy lives, ask
14 you to put your lives on hold so that the system
15 works because without jurors, we don't have a
16 criminal justice system so thank you.

17 To make matters worse in this particular case,
18 we bring you down for a murder. We bring you down
19 here for a trial that may take two and a half to
20 perhaps as much as three weeks. I truly want to
21 thank you all for that.

22 On the issue of coming down here, please
23 understand, every question I have for you and there
24 are several, as his Honor did indicate is designed
25 for a single purpose only, to insure a fair trial

1 for Mr. Richardson and a fair trial for the People.
2 That's it. That's what these questions are designed
3 for. So please forgive me if appear to probe.
4 Actually forgive me because I am going to probe. I
5 just won't appear to do it.

6 Ma'am, if I could start with you. How long have
7 you lived in New York?

8 PROSPECTIVE JUROR: My whole life.

9 MR. BOGDANOS: Like a native New Yorker
10 born and raised, may I assume like every New Yorker
11 I have ever met, you have an opinion about crime in
12 the city?

13 PROSPECTIVE JUROR: Sure.

14 MR. BOGDANOS: Don't tell me the opinion
15 but you have one.

16 PROSPECTIVE JUROR: Of course.

17 MR. BOGDANOS: You have an opinion about
18 the criminal justice system whatever the opinion is.

19 PROSPECTIVE JUROR: Sure.

20 MR. BOGDANOS: Sir, may I take it you have
21 an opinion as well? I am not going to ask it
22 whatever the opinion is, you got it right? A show
23 of hands who here has an opinion about crime in New
24 York City, raise your hand please, if you have an
25 opinion. I am not going to ask if you don't have an

1 opinion. You don't have an opinion just checking.
2 We are coming to TV later on. Everyone has an
3 opinion about the criminal justice system, good, bad
4 too easy, too hard, what have. Your opinion is we
5 have all got one.

6 Do you know, ma'am, I know you it do so forgive
7 me for saying this directly but you do understand
8 that opinions are not evidence, right?

9 PROSPECTIVE JUROR: Agreed.

10 MR. BOGDANOS: Anything you think about the
11 criminal justice system really has nothing to do
12 with the evidence in this case. Is that fair?

13 PROSPECTIVE JUROR: Yes.

14 MR. BOGDANOS: Do you promise me that if
15 you are selected to sit on this jury that each and
16 everyday you walk into this courtroom, you will stop
17 at those doors right there and you will check your
18 opinion, your agenda, your bias, your hostility,
19 whatever it is, check it at the door like so much
20 baggage because that's really what it is. And you
21 will bring into this courtroom your common sense,
22 your fundamental decency, your ability to perceive
23 observe and asses credibility. You will bring that
24 into the courtroom but all that other stuff, you
25 will leave outside. Will you do that?

1 PROSPECTIVE JUROR: Yes. It's the only
2 fair thing to do.

3 MR. BOGDANOS: Will everyone do just that.
4 Mr. Breza, will you do that? Will you leave -- and
5 I understand you have a slightly separate issue here
6 with your brother in laws conviction. Do you
7 believe as you sit here now -- only you can tell us.
8 We take you at your word. Can you assure us now
9 that you will leave anything -- any baggage that
10 remains from your brother in laws conviction? I am
11 sorry to have to bring it up again.

12 PROSPECTIVE JUROR: I would.

13 MR. BOGDANOS: You will check it at the
14 door and judge this case on the evidence in this
15 case. Will you do that?

16 PROSPECTIVE JUROR: Yes, of course.

17 MR. BOGDANOS: Everyone will, yes?
18 (Indicating).

19 MR. BOGDANOS: Thank you.

20 Ma'am, do you understand every time I say do you
21 understand, he notes the answer. The answer is yes.
22 It's getting to the question, that evidence is what
23 comes from for example, testimony from the witness
24 stand. That's right where it is. That's where the
25 witness is going to stand. That's the microphone

1 and then whatever exhibits his Honor will allow into
2 evidence either from the defense or the People, you
3 understand that's evidence?

4 PROSPECTIVE JUROR: Yes.

5 MR. BOGDANOS: Do you understand that if
6 it's not evidence, you must not consider it. You
7 must set aside all manner of irrelevancies that are
8 not based on the evidence and will you do that in
9 this case?

10 PROSPECTIVE JUROR: I can try.

11 MR. BOGDANOS: Everyone tries and I
12 understand that it's many times, it's just a way of
13 answering the question. But you know you well, you
14 know yourself. Do you think you are going to allow
15 extraneous material, irrelevancies to impact your
16 ability to be a fair juror in this case?

17 PROSPECTIVE JUROR: No.

18 MR. BOGDANOS: Okay.

19 Same question. Will you set aside all matters
20 of irrelevancies not based on the evidence?

21 PROSPECTIVE JUROR: Of course.

22 MR. BOGDANOS: When I say that, there is a
23 whole host of things that are irrelevant but let me
24 address just a couple if I could please. Each side,
25 the prosecution and the defense has attorneys whose

1 job it is to present evidence. Or to question
2 evidence. You understand that, right?

3 But you understand that the attorneys themselves
4 are not evidence, right? It's what's coming from
5 the witness stand that's evidence. No matter how
6 experience, clever witty, charming, intelligent
7 smart you find Mr. Klein, the lead defense counsel
8 or how much of the opposite you find me, do you
9 promise to put all of that aside and judge this case
10 solely on the evidence, not think about the
11 performance of the lawyers, who was better, you
12 promise to do that, ma'am?

13 I am going to ask you the same question if you
14 are selected as a juror, you will go into that
15 deliberation room in the back during every recess
16 and there may well come more than one time where you
17 are going to be in the back and say Klein got him
18 again or hey man, Klein is running circles around
19 him.

20 If you do it, do me a favor, please do it in the
21 back but do you assure me that however many times
22 you chuckle to yourself about that, you are not
23 going to allow that to impact and influence your
24 assessment of the evidence and your assessment of
25 the credibility of the witnesses who testify in this

1 case. Will you assure me of that?

2 PROSPECTIVE JUROR: Yes.

3 MR. BOGDANOS: Will each and every one of
4 you do that exact same thing?

5 PROSPECTIVE JURORS: Yes.

6 MR. BOGDANOS: Do you promise me? Thank
7 you. If I could now Ms. Wasserman, you mentioned
8 that you are in the health insurance business. Did
9 I hit that right? Are you legally in the health
10 insurance business?

11 PROSPECTIVE JUROR: Yes.

12 MR. BOGDANOS: Absolutely sure you are in
13 the health insurance business?

14 PROSPECTIVE JUROR: Yes.

15 MR. BOGDANOS: Are you telling us that you
16 are in the health insurance business?

17 PROSPECTIVE JUROR: Yes.

18 MR. BOGDANOS: Did you hear how many times
19 I repeated the same question. Is there any number
20 of times I can it, ask you that will change the fact
21 that you are in the health insurance business?

22 PROSPECTIVE JUROR: No.

23 MR. BOGDANOS: Is there any amount of
24 sarcasm I can put into my voice that will somehow
25 change the reality that you are in the health

1 insurance business?

2 PROSPECTIVE JUROR: No.

3 MR. BOGDANOS: You mean to tell me you
4 really want us to believe you are in the health
5 insurance business?

6 PROSPECTIVE JUROR: Of course.

7 MR. BOGDANOS: Do you believe her?

8 PROSPECTIVE JUROR: I do.

9 MR. BOGDANOS: But didn't you hear the
10 sarcasm in my voice. I really--

11 PROSPECTIVE JUROR: It was annoying.

12 MR. BOGDANOS: That's the best I can do.

13 Did you hear it?

14 PROSPECTIVE JUROR: I heard it.

15 MR. BOGDANOS: You get the point. The
16 truth is what the truth is, right, no matter how
17 many times I or I don't know any lawyer might ask a
18 question again and again and again doesn't change
19 your assessment of the answer, does it?

20 PROSPECTIVE JUROR: No.

21 MR. BOGDANOS: Ma'am, same question for
22 you, how about if I asked five more times if his
23 Honor lets me and he really wouldn't, how about I
24 got really sarcastic, would that somehow change your
25 assessment Of Ms. Wasserman's answer?

1 PROSPECTIVE JUROR: No.

2 MR. BOGDANOS: Will you bring that common
3 sense to bear if you are selected as a juror here?

4 PROSPECTIVE JUROR: Yes.

5 MR. BOGDANOS: You won't allow yourself to
6 be swayed by, I don't know, sarcasm or repetition or
7 anything like that but just listen to the answers
8 that are given questions coupled with the answers.
9 Will you do that?

10 PROSPECTIVE JUROR: Yes.

11 MR. BOGDANOS: Will each and every one of
12 you do just that?

13 (indicating).

14 MR. BOGDANOS: Mr. Romero, forgive me for
15 causing you to relive it. You mentioned you were
16 attacked in Chinatown a few years ago.

17 PROSPECTIVE JUROR: Yes.

18 MR. BOGDANOS: How many individuals were
19 involved?

20 PROSPECTIVE JUROR: It was just one.

21 MR. BOGDANOS: Mr. Sloan, same question.

22 PROSPECTIVE JUROR: Yes.

23 MR. BOGDANOS: There were three people and
24 I am not going to ask you to go into what each of
25 the three did. There is no need to relive but do

1 you have in your mind a clear indication of what
2 they did or was it all a blur or did you only get
3 good look at one and not the others?

4 PROSPECTIVE JUROR: It was pretty clear.

5 MR. BOGDANOS: And I think there has also
6 been a juror before, have you, not in a criminal
7 trial?

8 PROSPECTIVE JUROR: Yes.

9 MR. BOGDANOS: So you do know that the law
10 understands that crimes are often committed by more
11 than one person, right?

12 PROSPECTIVE JUROR: Yes.

13 MR. BOGDANOS: In your case, the crime was
14 committed by three people, I am not in any way going
15 to instruct you on the law. It's not my job. His
16 honor won't allow me anyway. But do you understand
17 in the law, there is a theory called acting in
18 concert? His honor will give you plenty instruction
19 on it, but can you accept a proposition if his honor
20 instructing you that under the law, the law
21 recognizes that one person can do a crime -- two
22 people can do a crime, three people and they are
23 they are all in a sense, if they participate, they
24 are all equally guilty.

25 You understand that?

1 PROSPECTIVE JUROR: Yes.

2 MR. BOGDANOS: And you can accept that?

3 PROSPECTIVE JUROR: Yes.

4 MR. BOGDANOS: For example, if your case, I
5 am just going to make up some facts. I rather you
6 not have to go through it but imagine, if you will,
7 that one person in your case was the lookout,
8 looking out to make sure there were no police, while
9 another grabbed you from behind, and a third went
10 through your pockets.

11 I hope I am not making you really relive it but
12 can you go with my hypothetical. You got those
13 three people. Do you understand?

14 And his honor will instruct you. It's not my
15 province but you understand, under the law, all
16 three of those are equally guilty of the robbery,
17 the lookout, the person who choked you and the
18 person who grabs your money. There are all three --
19 they even have different roles but they are all
20 three equally guilty. If the crime was robbery in
21 the second degree as it would be under that
22 hypothetical, they all three would be guilty
23 regardless of their individual roles.

24 Do you understand that?

25 PROSPECTIVE JUROR: Yes.

1 MR. BOGDANOS: You accept as if his Honor
2 charges you on that, you accept that? That's the
3 law.

4 PROSPECTIVE JUROR: Yes.

5 MR. BOGDANOS: Do you have any problem with
6 that law at all?

7 PROSPECTIVE JUROR: No.

8 MR. BOGDANOS: Sir, I will ask you the same
9 exact question. Do you have any problem --

10 PROSPECTIVE JUROR: You are telling me the
11 lookout is just as guilty as the guy who chokes him?

12 MR. BOGDANOS: Yes. That's the law. Can
13 you accept that?

14 PROSPECTIVE JUROR: Yes unless it was like
15 an emergency and he was drunk and he didn't know --
16 drugged.

17 MR. BOGDANOS: Who was drugged?

18 PROSPECTIVE JUROR: One of the guys.

19 MR. BOGDANOS: You mean the lookout was
20 drugged?

21 PROSPECTIVE JUROR: Maybe one guy was
22 drugged.

23 MR. BOGDANOS: We will come back to
24 imagination in a little while. Imagination is not
25 based on evidence. We will come back to that.

1 Because you are actually not allowed to do that but
2 let me hold that thought.

3 Can you ma'am accept that what I just called
4 acting in concert, that theory under the law that if
5 each individual has a role in the crime each
6 individual is guilty of that crime?

7 PROSPECTIVE JUROR: Yes.

8 MR. BOGDANOS: Of course when it comes to
9 sentencing, the judge may or may not make a
10 different sentencing. But you understand the
11 concept?

12 PROSPECTIVE JUROR: Yes.

13 MR. BOGDANOS: You accept it?

14 PROSPECTIVE JUROR: Yes.

15 MR. BOGDANOS: Ma'am, same thing. Can you?

16 PROSPECTIVE JUROR: Yes.

17 MR. BOGDANOS: Can you?

18 PROSPECTIVE JUROR: Yes.

19 MR. BOGDANOS: Can you.

20 PROSPECTIVE JUROR: Yes.

21 MR. BOGDANOS: Anyone who can't accept that
22 who just doesn't think that ought to be the law or
23 can't follow it, if it is the law. Anyone think
24 that at all?

25 (No response.).

1 MR. BOGDANOS: Thank you.

2 Continuing on the theme of setting aside all
3 matters of irrelevancies that are not based on the
4 evidence, Ms. D'Augusta, you heard his Honor talk
5 about the fact that this is a murder trial.

6 PROSPECTIVE JUROR: Yes.

7 MR. BOGDANOS: And very briefly the
8 allegations. I'm asking for your assurance in any
9 murder trial, it is common human nature to have a
10 whole host of emotions and they run the gamut from
11 sympathy for the victim, anger at the act that
12 occurred, all of the emotions. I need to have your
13 assurance please if you can give it, that you will
14 put aside all such emotions. You will check them at
15 the same door over there, anger, sympathy, all those
16 emotions, you will do that even though this is a
17 murder trial. Will you do that?

18 PROSPECTIVE JUROR: Do my best, yes.

19 MR. BOGDANOS: You know you better than
20 anyone. Again, we understand that it's a way of
21 speaking, I will try. I will do my best. I will do
22 the best I can. Knowing you, do you think you will
23 succeed in -- sure, feel sympathy. Sure, feel
24 anger. Feel all those things but don't allow them
25 to influence your assessment of the evidence or your

1 verdict. Will you do that.

2 PROSPECTIVE JUROR: Yes.

3 MR. BOGDANOS: Of course is the words you
4 said.

5 PROSPECTIVE JUROR: Yes.

6 MR. BOGDANOS: Ms. Romero, same question
7 for you. Let me make the question a tiny bit harder
8 for you. The allegations in this case are that
9 Helen Abbot, the woman that was sexually abused
10 robbed and murdered was 69 years old. Her daughter
11 is going to testify in this trial.

12 It's common human emotion to feel sympathy for
13 the surviving daughter or the seven grandchildren or
14 the eight great grandchildren. I need to know that
15 you are going to set that sympathy aside assuming
16 you feel it and judge this case only the evidence.
17 Will you do that?

18 PROSPECTIVE JUROR: Yes.

19 MR. BOGDANOS: Mr. Sloan continuing, you
20 will hear the allegations are that the 69 year old
21 woman was stabbed more than 22 times with a pair of
22 scissors and then her life was ended when an
23 electrical chord was pulled around her neck and she
24 was strangled to death. Do you promise me that no
25 matter how horrific you might find what happened to

1 that 69 year old woman, you will not allow any anger
2 or sympathy to affect your verdict but rather, you
3 will judge this case solely on the evidence.

4 Will you do that?

5 PROSPECTIVE JUROR: Yes.

6 MR. BOGDANOS: Ma'am, I will ask you the
7 same question. Will you do that?

8 PROSPECTIVE JUROR: Yes.

9 MR. BOGDANOS: Ms. Infante, will you do
10 that?

11 PROSPECTIVE JUROR: I don't know that I
12 can.

13 MR. BOGDANOS: Ma'am, thank you so much for
14 your honesty.

15 Anyone else having heard a tiny bit more about
16 the facts that you can't let me not do it, negative,
17 that's crazy. Can each of you assure me that no
18 matter how horrific you find the crime, you'll
19 obviously listen to the evidence but you will not
20 allow the horror that you may feel at the crime
21 committed to affect your verdict. Can you all
22 assure me you will do that?

23 PROSPECTIVE JUROR: I cannot either.

24 MR. BOGDANOS: More than one of exceeded my
25 memory of course. It's on the record so Mr. Minaya,

1 you do not think you can set aside whatever
2 emotions?

3 PROSPECTIVE JUROR: No.

4 MR. BOGDANOS: Thank you sir.

5 Mr. Hernandez you do not and Ms. Infante.

6 PROSPECTIVE JUROR: I would have trouble
7 too.

8 MR. BOGDANOS: Let me just follow-up.
9 Trouble. This is a troubling business. It's a
10 troubling business to try to prosecute a homicide.
11 It's a troubling business to be a judge on a
12 homicide. It's a troubling business to be a court
13 reporter on a homicide.

14 It's a troubling business to be a juror. I got
15 it. But knowing you, however troubling it is, you
16 have already spoken to us privately about your
17 appreciation for the duty of a juror, one of the
18 greatest things any citizen can do for its
19 community, military service and jury duty.

20 So we know how you feel about jury duty. Can
21 you put those emotions, keep them. They are yours.
22 You have them. No one is expecting you to say, I am
23 a robot. I have no emotion. I am not going look at
24 those pictures and get ill. I am not going to hear
25 the daughter and just want to cry. No one is

1 expecting that.

2 What we are asking is okay but separate emotion
3 from fact. Separate your reaction and simply do
4 what you do in everyday life and that is asses the
5 evidence just like you do in a normal -- any normal
6 significant event. In your life, you asses what you
7 see. Asses the credibility of people.

8 You asses the reliability of evidence and I am
9 asking you, can you do that in this case. If you
10 can't, you can't. If you can, please let us know.

11 PROSPECTIVE JUROR: I can try but it's
12 difficult.

13 MR. BOGDANOS: I am sorry.

14 PROSPECTIVE JUROR: It's going to weigh--

15 MR. BOGDANOS: The emotion will weigh.
16 Okay. I got it. Thank you, ma'am. I appreciate
17 it.

18 MR. BOGDANOS: All right.

19 Ms. Clagett, I promised to come back to you.
20 Don't get offended. I don't have cable. So, I
21 don't watch most of these shows although I have ones
22 that I have watched. You check my netflix, you will
23 see NCIS and Law and Order but I know this every
24 other -- every other channel has CSI, CSI that Miami
25 Las Vegas, New York. There is a whole host of crime

1 shows, law shows, criminal justice shows. I am
2 picking you for the whole industry. You got that?

3 PROSPECTIVE JUROR: Yes.

4 MR. BOGDANOS: You are okay with that?

5 PROSPECTIVE JUROR: That's fine.

6 MR. BOGDANOS: You understand what I am
7 getting at. This you understand this isn't
8 television. If this were television, let's be
9 honest, I would be six foot tall and good looking.
10 We are clear, right. This ain't it.

11 For television, I call my assistant and I would
12 say, okay. I want the DNA and I want it in 45
13 minutes. Right. That's how that works. And I want
14 it now. And I want that fiber.

15 I want to know what province in China that fiber
16 came from and what ship it came in on and through
17 what port, right. If it were television, I would
18 get it right?

19 This may come as a shock to you, but we don't
20 get it. That's not how that works. You are okay
21 with that?

22 PROSPECTIVE JUROR: Yes. I work in news.

23 MR. BOGDANOS: All right so. You
24 understand that that's not how it really works but
25 the reality is because of your industry, it has

1 changed the way jurors look at cases and it has
2 changed the way jurors -- has changed jurors'
3 expectations. In fact, it is so palpable, there is
4 a name. It's called the CSI effect and there are
5 experts who write entire journals on the CSI effect.

6 Whatever this effect is, do you promise to hold
7 me to real life and not TV expectations?

8 PROSPECTIVE JUROR: Yes, sir.

9 MR. BOGDANOS: Same question. I just --
10 I'm not going to move some satellite surveillance
11 and change it and backtrack it and find the license
12 plate of the getaway car -- there is no car in this
13 case. I am not going do it. Never done that.
14 Always wanted to. Every time I see it, I think it's
15 really cool.

16 You understand that's not going to happen here?

17 PROSPECTIVE JUROR: Yes.

18 MR. BOGDANOS: And you are not going to
19 expect that?

20 PROSPECTIVE JUROR: No.

21 MR. BOGDANOS: Is anyone going to be so
22 disappointed by the lack of -- I have some really
23 cool charts but they are excel spreads sheets blown
24 up. That's what you are getting here. I am telling
25 you right now you are getting a couple of charts

1 that I glued and stapled and taped. If that's going
2 to affect your ability to be a fair juror, I need to
3 know that now. If you want flash, you are in the
4 wrong courtroom. You are in the wrong universe but
5 you are in the wrong courtroom.

6 Any grand juror is going to expect that and hold
7 me to real life, honest, to good standards and not
8 TV standards. I will leave Ms. Clagett alone now.
9 This is a yes or no answer, yes or no and I am not
10 going to ask for any details. I give you my word
11 and my word is good: I give you my word, no
12 details.

13 Has anyone here by a show of hands -- show of
14 hands -- has anyone here ever done anything bad in
15 your life? Doesn't have to be criminal, just
16 something you wish you hadn't done? Anybody?

17 (Indicating).

18 MR. BOGDANOS: Really. Were there hands
19 that did not go up? I am talking about college too.
20 There is no statute of limitations. We are all in
21 agreement.

22 Ms. Vincent, just whatever it is you have done
23 bad things, do not tell us.

24 PROSPECTIVE JUROR: Okay.

25 MR. BOGDANOS: You ever tell anyone about

1 them, close friend, family, anything? Have you ever
2 told anyone, gee, I did it and I really wish I
3 hadn't?

4 PROSPECTIVE JUROR: Of course.

5 MR. BOGDANOS: Why?

6 PROSPECTIVE JUROR: I guess I felt better
7 after I told someone about it.

8 MR. BOGDANOS: Do you think you are the
9 only person in the world who has ever done something
10 bad and then talked about it -- told about it?

11 PROSPECTIVE JUROR: No.

12 MR. BOGDANOS: You think it's probably a
13 common human emotion.

14 PROSPECTIVE JUROR: Yes.

15 MR. BOGDANOS: In fact, aren't there entire
16 religions that are based on the cleansing value of
17 confession?

18 PROSPECTIVE JUROR: Yes.

19 MR. BOGDANOS: So, if you were to hear in
20 this case that the defendant confessed to some of
21 the crime, this wouldn't shock you? You won't say,
22 oh, that's ridiculous?

23 PROSPECTIVE JUROR: No, I would not.

24 MR. BOGDANOS: Would that shock anybody at
25 all?

1 Does anyone not accept the concept that people
2 actually confess to crimes? Anyone reject that?
3 How about you? You will listen? You accept that
4 that happens. It's part of human nature.

5 PROSPECTIVE JUROR: Yes.

6 MR. BOGDANOS: Sometimes, you do a crime
7 and you tell about it?

8 PROSPECTIVE JUROR: Yes.

9 MR. BOGDANOS: You are being a good sport.
10 Ms. Vincent, let me come back to you. On the
11 occasions when you have heard told, have you always
12 told like everything you did or did you minimize or
13 spin it a little bit?

14 PROSPECTIVE JUROR: I think I have spun it
15 a little.

16 MR. BOGDANOS: Do you think you are the
17 only person in the world that's ever done that?

18 PROSPECTIVE JUROR: No.

19 MR. BOGDANOS: Ms. Blank, you were looking
20 at her sympathetically so I take it you fall in the
21 same category. There are times in your life you
22 done something you wish you hadn't done and you told
23 people about it?

24 PROSPECTIVE JUROR: Yes.

25 MR. BOGDANOS: But you spun it a little.

1 Maybe you put yourself in a little better light?

2 PROSPECTIVE JUROR: Yes.

3 MR. BOGDANOS: Maybe you didn't quite say
4 everything you did, but just enough.

5 PROSPECTIVE JUROR: Yes.

6 MR. BOGDANOS: And you don't think the two
7 of you are the only two people in the whole world
8 that have ever done that, do you?

9 PROSPECTIVE JUROR: No.

10 MR. BOGDANOS: You think maybe there might
11 be other people throughout this courtroom that have
12 done the exact same thing? I will raise my hand
13 (indicating).

14 PROSPECTIVE JUROR: Yes.

15 MR. BOGDANOS: Maybe on that side of the
16 courtroom as well.

17 PROSPECTIVE JUROR: Yes.

18 MR. BOGDANOS: You will keep an open mind.

19 PROSPECTIVE JUROR: Yes.

20 MR. BOGDANOS: And you will listen to hear
21 whether or not that took place here?

22 PROSPECTIVE JUROR: Yes.

23 MR. BOGDANOS: Will everyone do that?

24 (Indicating).

25 MR. BOGDANOS: I'm just about done so thank

1 you for yours patience with me.

2 Mr. Minaya and Mr. Hernandez forgive me for
3 skipping over you. You already told us you can't be
4 here so I don't want to put you through anything.
5 Same thing for you, Ms. Infante.

6 You said you don't think you are going to be
7 fair. You will not be sitting on this jury and I
8 don't want to put you through this whole questions.
9 Forgive me for keep walking past you. No
10 favoritism. It's just that you are not going to be
11 on this jury.

12 Bear with me one moment, please. Anyone here
13 take psychology in college?

14 (Indicating).

15 MR. BOGDANOS: Okay. See that will teach
16 you to raise your hand. In psychology, why you did
17 it, why anyone does something, that's certainly the
18 essence of the science of the art, right. I mean,
19 that's part of the center of what psychology is
20 about, the why, right, from what you remember?

21 PROSPECTIVE JUROR: Okay.

22 MR. BOGDANOS: I am asking.

23 PROSPECTIVE JUROR: Abnormal psychology.

24 MR. BOGDANOS: Let's do it this way. The
25 why is a relevant question.

1 PROSPECTIVE JUROR: Okay.

2 MR. BOGDANOS: I am asking.

3 PROSPECTIVE JUROR: Yes.

4 MR. BOGDANOS: You understand that it's a
5 valuable question. It's an important question, why
6 does anyone do anything? That's a really -- it's an
7 interesting question.

8 PROSPECTIVE JUROR: Yes.

9 MR. BOGDANOS: But do you understand in
10 this courtroom of all the things I am charged with
11 proving, in order to meet my burden as his Honor has
12 said of, all the things if I am to meet my burden of
13 proof and for to find this man guilty of murder in
14 the second degree, I have to prove a whole host of
15 things. I have to prove he either committed or
16 participated in a robbery or a sex abuse and that
17 during the course of that robbery and sex abuse, he
18 and others with him murdered that woman. I have to
19 prove all of that beyond a reasonable doubt by
20 competent evidence. But what I don't have to prove
21 is why.

22 Can you accept that?

23 PROSPECTIVE JUROR: Yes.

24 MR. BOGDANOS: Is it fair to say that if
25 you are seated as a juror one of the things you are

1 going to want to know is why, why would any anybody
2 stab a 69 year old woman more than 22 times with a
3 pair of scissors. I mean it's a fair question,
4 right?

5 PROSPECTIVE JUROR: Yes.

6 MR. BOGDANOS: During the recess, you will
7 go out in the hallway and you may very well say
8 internally, why? It's fair, right?

9 PROSPECTIVE JUROR: Yes.

10 MR. BOGDANOS: Why would someone cut the
11 electrical chord to a lamp and take that electrical
12 chord and put it around her neck and strangle her to
13 death. My goodness. Why? Fair question.

14 PROSPECTIVE JUROR: Yes.

15 MR. BOGDANOS: If selected as a juror here,
16 do you understand that you may never get an answer
17 to that question?

18 PROSPECTIVE JUROR: Oh, yes.

19 MR. BOGDANOS: Thomas Landis is right.
20 Some questions just don't have answers. Can you
21 accept that?

22 PROSPECTIVE JUROR: Yes.

23 MR. BOGDANOS: Sir, can you accept that you
24 might never find out why to your satisfaction?

25 PROSPECTIVE JUROR: Sure.

1 MR. BOGDANOS: Would the fact that you
2 could never fully grasp why, would that impact your
3 ability to render a fair verdict here?

4 PROSPECTIVE JUROR: No.

5 MR. BOGDANOS: Ma'am.

6 PROSPECTIVE JUROR: No.

7 MR. BOGDANOS: Do you understand?

8 You would certainly want to know why, won't you?

9 PROSPECTIVE JUROR: Yes, definitely.

10 MR. BOGDANOS: But can you accept that you
11 might never find out why?

12 PROSPECTIVE JUROR: I can, yes.

13 MR. BOGDANOS: And still render a fair
14 verdict yes?

15 PROSPECTIVE JUROR: Yes.

16 MR. BOGDANOS: Does anyone have a problem
17 accepting that, that no -- and people have said in
18 the past, I got to know why. You want me to find
19 someone guilty of murder. You better show me why.

20 Is anyone thinking that?

21 (No response .)

22 MR. BOGDANOS: Thank you.

23 Any readers of mystery novels? No one.

24 (indicating).

25 MR. BOGDANOS: Thank you. Most good

1 mystery novels certainly -- I read them by the end
2 of the book, you find out pretty much everything
3 that happens.

4 PROSPECTIVE JUROR: Correct.

5 MR. BOGDANOS: For the most part. I mean
6 there are some you never -- there is a couple.
7 Edgar Allen Poe that you really never figure out
8 wait a second. By the end of the book for the most
9 part, you found out everything.

10 You know the color of the curtains in the room
11 right during the murder. You know how much sunlight
12 was coming in and you know everything. You know the
13 exact moment of death. The exact -- all those
14 things you know all that. Can you accept that as
15 much as we would like that, that's not how real life
16 works?

17 PROSPECTIVE JUROR: Absolutely.

18 MR. BOGDANOS: And that in any case, this
19 case, case Mr. Sloan was on before, any case other
20 jurors was on as jurors. You don't get all the
21 answers. The burden is to prove -- to give you
22 enough answers to prove that the defendant murdered
23 Ellen Abbot but not to tell you in minute detail,
24 every single action that took place in the exact
25 sequence action stack number. One was in the left

1 jugular. Stab number two was in the aorta. Stab
2 number three punctured the liver. Four, five and
3 six went in through the lungs and then the seven
4 ribs were fractured and then she was placed in a
5 chokehold.

6 Is that the kind of expectation you have, that
7 somehow I am going to be able to prove to you
8 exactly in what sequence all these injuries took
9 place?

10 PROSPECTIVE JUROR: No; seems irrelevant.

11 MR. BOGDANOS: But you will still hold me
12 to my burden?

13 PROSPECTIVE JUROR: Yes.

14 MR. BOGDANOS: Okay. Because this isn't,
15 where is my ballet fan? This is real life in an
16 apartment, where the only person left is dead. So,
17 there is going to be questions about how exactly,
18 exactly when, but as long as the people meet their
19 burden, are you okay with that?

20 PROSPECTIVE JUROR: Yes.

21 MR. BOGDANOS: Anyone who hasn't already
22 told me you can't, anyone have a problem with the
23 concept that not only you are not going tell me why
24 but wait a second, you are not going to prove to me
25 exactly how. Anyone have a problem because now is

1 the time to say.

2 (No response .)

3 MR. BOGDANOS: Thank you.

4 Finally, the judge mentioned in his brief
5 instructions and as he indicated, he is going to
6 give very thorough clear instructions both before
7 the case and then after on all the legal consents --
8 I am not going into any legal concepts at all in any
9 detail. Not my job. But the one thing his Honor
10 talked about was proof beyond a reasonable doubt.
11 That is my burden as a representative of the People
12 of the State of New York, to prove it beyond a
13 reasonable doubt if I can by competent evidence.

14 Do each of you promise to hold me to my burden?
15 Don't let me off the hook. Not one iota, each of
16 you promise to hold me to that burden beyond a
17 reasonable doubt? You hear the operative word in
18 that phrase, reasonable, not beyond all doubt or I
19 have heard it on movies, beyond a shadow of a doubt.
20 I don't even know what beyond the shadow of a doubt
21 means. I know it's not the standard but you will
22 all hold me just to that standard.

23 Ma'am, you would do that, just that standard and
24 none other.

25 Ms. Wasserman, right?

1 PROSPECTIVE JUROR: Yes.

2 MR. BOGDANOS: You are not mad at me for
3 the repetitive questions from before, are you?

4 PROSPECTIVE JUROR: No.

5 MR. BOGDANOS: Maybe this will do it. When
6 you came into the courtroom when his Honor called
7 everyone in at 2:15, you came through those doors,
8 right?

9 PROSPECTIVE JUROR: Yes.

10 MR. BOGDANOS: When you came in through
11 those doors, were there any wild dogs out in the
12 hallway?

13 PROSPECTIVE JUROR: No.

14 MR. BOGDANOS: See any wild dogs?

15 PROSPECTIVE JUROR: No.

16 MR. BOGDANOS: See that woman right by the
17 door, my assistant Ms. Pat, very competent. It is
18 entirely possible that I texted her a few minutes
19 ago and said get the wild dogs and put them in the
20 hallway and do it now. She works for me and she is
21 competent.

22 I am telling you right now, if there is a way to
23 do it, she could do it. Do you think there are any
24 wild dogs out in the hallway?

25 PROSPECTIVE JUROR: No.

1 MR. BOGDANOS: You agree with me in the
2 universe of possibilities, it is possible?

3 PROSPECTIVE JUROR: Yes.

4 MR. BOGDANOS: So at the end his Honor when
5 we break and gives us a recess, are you going to
6 stay here for the possibility that there are rabbit
7 dogs or are you going to just walk out those doors?

8 PROSPECTIVE JUROR: I am going walk out.

9 MR. BOGDANOS: Because it's not a
10 reasonable possibility, is it?

11 PROSPECTIVE JUROR: Correct.

12 MR. BOGDANOS: Will you bring that exact
13 common sense to bear in this case, base any verdict
14 you have in this case on proof beyond a reasonable
15 doubt?

16 PROSPECTIVE JUROR: Yes.

17 MR. BOGDANOS: Will you do that? Will each
18 and every one of you do the exact same thing and
19 please, I am going to ask for an audible yes, if
20 that's the case.

21 PROSPECTIVE JURORS: Yes.

22 MR. BOGDANOS: Again, I thank you for your
23 service, your time and your patience. Thank you,
24 your Honor.

25 THE COURT: Thank you, Mr. Bogdanos.

1 Mr. Klein.

2 MR. KLEIN: Thank you, judge. I guess you
3 know the sole purpose here is to see if this the
4 right case for you. Are you the right jurors for
5 this case. I assume Ms. Blank it doesn't take a lot
6 to convince you that nobody should be bludgeoned,
7 stabbed strangled and left in a pool of their own
8 blood, right? Nobody should have their life end
9 that way, whether they are young or old, right?

10 MR. KLEIN: In fact, whether someone has
11 lead an exemplary life or not has a good pattern or
12 not, is a drug user or not, is a lawyer or someone
13 who lives on public assistance, no one should be
14 killed and murdered in that way, right?

15 PROSPECTIVE JUROR: No.

16 MR. KLEIN: When you hear that, that that's
17 what happens to someone obviously whoever they are
18 in some fashion your heart goes out to that
19 individual, yes?

20 PROSPECTIVE JUROR: Yes.

21 MR. KLEIN: Ms. Wasserman, I assume -- I
22 don't know if you have a mother but I assume it
23 won't take a lot to convince you that no adult
24 daughter should ever walk into a house can looking
25 for their mother because they have lost contact with

1 her and find her bludgeoned, stabbed and strangled
2 and left half naked on the floor, right? That
3 should never happen to any daughter, any son, any
4 child whether they are young or old, yes?

5 PROSPECTIVE JUROR: Yes.

6 MR. KLEIN: Just hearing about that raises
7 a certain kind of horror, maybe even fear in some
8 people and disgust, yes?

9 PROSPECTIVE JUROR: Yes.

10 MR. KLEIN: Knowing that's what happened to
11 someone, that's what happened to a mother and that's
12 what a daughter then did discover. And I would also
13 assume Ms. Clagett that just hearing about that, it
14 would raise some kind of anger of anyone who is even
15 suspected of being involved in creating that kind of
16 tragic event, right?

17 PROSPECTIVE JUROR: Yes.

18 MR. KLEIN: I bring it up because that's
19 what this case is about. That's what you are going
20 to hear about. And whether you think the emotions
21 are strong now just hearing about it, wait until yo
22 see the evidence of it because people are going come
23 in and talk about it. You are going to see terribly
24 graphic pictures. You are going to hear medical
25 people describe it. You are going see photographs.

1 You are going to hear a daughter talk about it and
2 you also know that Mark Richardson, he is the person
3 who is accused of creating that kind of horror,
4 okay.

5 And I guess, I just need all of you to grapple
6 with it now and decide over the weekend or decide,
7 now. That's okay. I understand it had and it's
8 going to be painful but I can deal with it. You
9 know I am going to feel terrible about it but in
10 some sense, I will be able to put it all aside and
11 decide in this case what's proven.

12 Ms. Chevel, you can do that?

13 PROSPECTIVE JUROR: Yes.

14 MR. KLEIN: I also bring it up because you
15 can't decide the case based on any kind of anger,
16 thinking he is the guy who is accused of it. He is
17 the guy sitting there and we have to find someone
18 answerable for this problem. Since he is the one
19 who is accused of it, maybe he is the guy who did
20 it. You can't decide a case in that fashion, okay.

21 PROSPECTIVE JUROR: Okay.

22 MR. KLEIN: Can everyone here, except for
23 the people who said they would have a problem.
24 Mr. Polumbo, let me ask you, can you assure me as
25 you think about the facts of the case and already

1 what you know. Those are facts that aren't in
2 dispute. This really terrible thing happened and a
3 daughter came in and discovered her mother. And
4 worse, her mother was killed in this terribly brutal
5 fashion. Can you assure us, assure the judge and
6 assure my client that you won't use in any sense the
7 anger and disgust and the fear and the horror that
8 creates any kind of proof in the case?

9 PROSPECTIVE JUROR: Yes.

10 MR. KLEIN: You won't say well, I know this
11 is a really horrible thing. This is the worst thing
12 I ever heard about. About maybe it is. It's going
13 to be and you won't say someone has to pay for this.

14 It's not fair that someone ends this way and
15 someone, a daughter comes in and discovers her
16 mother in this way and another daughter comes in.
17 Someone has to pay for it, you know, which is a fine
18 thing to feel but you can't assume in any way, well,
19 he is the guy over there. He is the guy accused so
20 he is the guy that's going to have to pay for it.
21 You can't do that.

22 Is that fair?

23 PROSPECTIVE JUROR: Yes.

24 MR. KLEIN: You won't say to yourself,
25 well, he is the one accused. He is the one on trial

1 and you know, we can't let this daughter go away
2 feeling that you know, someone wasn't found guilty.
3 Even if we are not convinced, we are going to
4 convict that guy of the crime even if you are not
5 really certain that he is the person who committed
6 it. You won't do that, will you?

7 PROSPECTIVE JUROR: No.

8 MR. KLEIN: All right.

9 MR. KLEIN: Ms. Vincent same thing. I
10 would ask you, this is a terribly terribly serious
11 accusation. The accusation is murder in the second
12 degree. This is a murder that's really horrendous.
13 All the circumstances surround it are horrendous and
14 you heard that the government, you know, has taken a
15 position that he is the guy who is responsible for
16 doing it. You have to consider the evidence in the
17 case. You have to consider the horror in everything
18 but can you assure me that you won't think in any
19 way that because the government has decided to
20 accuse him in some way, he must be the guy who is
21 responsible for this crime?

22 PROSPECTIVE JUROR: Yes.

23 MR. KLEIN: You won't do that, right?

24 MR. KLEIN: No. I mean yes, the government
25 has lodged an accusation against him, but the

1 government can be wrong about the person that they
2 are accusing, right? And they can be wrong about
3 something that's even so serious, yes?

4 PROSPECTIVE JUROR: Yes.

5 MR. KLEIN: Ms. Austin, you know you are
6 going to hear -- obviously, there is a professional
7 prosecutor and there are going to be professional
8 witnesses. By that, I mean a professional police
9 force, New York City police force Medical
10 Examiner's.

11 The prosecutor is going to try to convince you
12 he is the guy. He is the guy who is responsible.
13 Got to listen to it. I want to make sure you agree
14 with that just because they have taken a position
15 thinking that it's him, that he is the guy who is
16 responsible doesn't mean that they are right in that
17 position.

18 Is that okay? You can do that?

19 PROSPECTIVE JUROR: Yes.

20 MR. KLEIN: Mr. Breza, any problem with
21 that?

22 PROSPECTIVE JUROR: No.

23 MR. KLEIN: Okay. Ms. D'Augusta.

24 PROSPECTIVE JUROR: No.

25 MR. KLEIN: The fact that he is accused of

1 the crime in no no way means he is the killer,
2 right? Is that right?

3 PROSPECTIVE JUROR: Yes. That's right.

4 MR. KLEIN: The fact that he is accused of
5 a crime that's really horrendous, you will hear its
6 about three and a half years ago. We are talking
7 about January 11, 2008. We are in 2011. You can't
8 think oh, my God. If they are bringing him to trial
9 it's a long investigation. It's obviously they got
10 the right guy. If you decide that, fine but if it's
11 not proven, you won't assume that because he is the
12 one that sits there. He must be the one that's
13 responsible for it.

14 Can you do that?

15 PROSPECTIVE JUROR: Yes.

16 MR. KLEIN: Okay.

17 Mr. Sloan, the judge instructed you and
18 everybody else on the presumption of innocence. He
19 said that's one of the fundamental cornerstones you
20 have to apply not just in every criminal case. I
21 don't care about every criminal case. I care about
22 this one.

23 You will apply it here to Mark Richardson?

24 PROSPECTIVE JUROR: Yes.

25 MR. KLEIN: And you look over, you know,

1 what he is accused of doing. He is the guy who
2 participated in stabbing somebody all these times
3 and sexually abusing them and robbing them, you will
4 still presume that man over there Mark Richardson
5 not guilty of these criminal events, right?

6 PROSPECTIVE JUROR: Yes.

7 MR. KLEIN: And you have no problem doing
8 that, right?

9 PROSPECTIVE JUROR: Yes.

10 MR. KLEIN: Okay.

11 Ms. Blank, let me tell you something about the
12 case. Make it even a little more difficult because
13 one of the things you are going to hear throughout
14 the case is regardless of the presumption of
15 innocence of the criminal charges, one thing you are
16 definitely going to decide is Mark Richardson is no
17 innocent kid, all right.

18 You are not going think that's an angelic kid
19 who has never been involved in his own problems. In
20 fact, one of the things you will hear about is he
21 has been involved in his own criminal activities at
22 times, okay.

23 PROSPECTIVE JUROR: Okay.

24 MR. KLEIN: And knowing that, knowing that
25 Mark Richardson, this big guy sitting over here, he

1 is not an angel. He is not an innocent guy. The
2 way we consider our newborn children innocence, you
3 will still apply the presumption of innocence in
4 this case to him, right?

5 PROSPECTIVE JUROR: Yes.

6 MR. KLEIN: I can't instruct you on the
7 law. I am not allowed to and the judge does that,
8 but the presumption of innocence means, you presume
9 the individual innocent of the charges, right?

10 PROSPECTIVE JUROR: Yes.

11 MR. KLEIN: Doesn't mean that the
12 individual has to be a perfect innocent man in order
13 to have the presumption of innocence apply to him,
14 okay.

15 PROSPECTIVE JUROR: Yes.

16 MR. KLEIN: So Mr. Polumbo if during the
17 facts of the case, during the case, you eventually
18 come to decide you know, I am not sure that guy did
19 what he is accused of but that guy over there
20 Mark Richardson, I don't really like him much. I
21 wouldn't want him to be my friend. I wouldn't
22 invite him over to dinner at my house.

23 You put all that aside and still presume him
24 innocent of this charge and if this charge isn't
25 proven against him, you will acquit him of this

1 case, yes?

2 PROSPECTIVE JUROR: Yes.

3 MR. KLEIN: Okay.

4 Ms. Romero, same question to you. Knowing that
5 one of the things you are going to hear in this case
6 is you are going to say, you know, I see why they
7 charged him. I see why they are going after him you
8 know. You don't like him. You end up deciding you
9 don't trust him. You don't trust anything he has
10 ever had to say. You think he has been up to his
11 own criminal activity but you still apply the
12 presumption of innocence to him.

13 PROSPECTIVE JUROR: Absolutely.

14 MR. KLEIN: You won't in any way say, look,
15 even if his lawyer, the lawyer, the guy who is
16 defending him, that's not the world's greatest over
17 there, mark Richardson. You won't use that as
18 evidence against him and say, I guess he must be
19 guilty of this crime. You won't do that.

20 PROSPECTIVE JUROR: No.

21 MR. KLEIN: Anyone going to do that?

22 (Indicating.)

23 MR. KLEIN: Sometimes Mr. Celio in some
24 cases, some cases you know you have like a young
25 person, 19 year old in college. He is accused

1 crimes and that kid you find out about him that he
2 is in college. He has a really bright future. His
3 parents are here.

4 You hear he has never done anything wrong in his
5 life and you are asked to judge him and obviously
6 you say wow, I mean that's like a really innocent
7 person and I sure don't want to convict him of a
8 crime unless it's really proven to me that he
9 actually did the crime, right?

10 PROSPECTIVE JUROR: Sure.

11 MR. KLEIN: Okay. And in that case, you
12 can say it would be pretty easy to follow the judges
13 instructions and presume him innocent, not convict
14 him unless it's proven. But how about here in this
15 case? I have already told you some of the things
16 you are going to hear that are going to make you
17 dislike that man, Mark Richardson who sits over
18 there.

19 Can you still assure me in spite of that, in
20 spite of knowing that, you will still give him those
21 same protections that the law provides anyone
22 accused of a crime just like you would to that 19
23 year old kid?

24 PROSPECTIVE JUROR: Yes.

25 MR. KLEIN: Just like you would to your

1 brother if you have one?

2 PROSPECTIVE JUROR: Yes.

3 MR. KLEIN: Okay.

4 I would make it harder Ms. Chevel because among
5 the things you are going to hear that you dislike
6 about him is that he lies during a police
7 investigation, okay. He doesn't help the police.
8 In fact, he lies to the police.

9 Obviously, that's a bad thing to do and you can
10 use it against him in any way you want. You can
11 think of what the lies are. You can think what they
12 mean to you but you can't in any way say, well
13 because he is a liar, I am going to assume he must
14 be guilty of the crimes or someone would lie during
15 the police investigation, no. No. That person is
16 so terrible, that I am going in some way assume he
17 must be guilty. You won't do that?

18 PROSPECTIVE JUROR: Of course not.

19 MR. KLEIN: Okay.

20 So regardless of the fact that throughout the
21 case and as the case goes on, you decide you don't
22 like Mark Richardson. I don't want to ever be near
23 him. He is a liar and he is a bum. I don't like
24 anything I have heard about him, unless this
25 specific charge is proven, you won't find him

1 guilty, would you?

2 PROSPECTIVE JUROR: Correct.

3 MR. KLEIN: It's not like if at the end of
4 the case, you say, I don't really know if he did
5 this. Bad as he may be, I don't really know if he
6 did this, then you won't hesitate to vote not
7 guilty, right?

8 PROSPECTIVE JUROR: Correct.

9 MR. KLEIN: It's not like you are giving
10 him an award saying, we think you are the greatest.
11 You are just saying -- you are saying I am not sure.
12 You would do that?

13 PROSPECTIVE JUROR: Yes.

14 MR. KLEIN: Okay.

15 Mr. Sloan, you heard an enormous list of the
16 witnesses, right?

17 PROSPECTIVE JUROR: Yes.

18 MR. KLEIN: A lot of them I believe are
19 police officers, people that work with the police
20 and they are going to testify. I don't think there
21 is going to be much issue about what they have to
22 say. I don't know. I haven't heard them all but
23 you know I think you heard a long list of civilians,
24 right?

25 PROSPECTIVE JUROR: Yes.

1 MR. KLEIN: And I don't know what they are
2 going to say either but I have an inkling and there
3 is a possibility that someone is going to come in
4 and say, you know, that guy he said all sorts of
5 things to me. You know, he admitted I did it. He
6 said he was the killer or something like that, okay.
7 Someone is going to take the witness stand maybe and
8 say that. You are going to evaluate that person's
9 credibility, right.

10 PROSPECTIVE JUROR: Yes.

11 MR. KLEIN: You decide for yourself whether
12 you think that person is telling the truth, right?

13 PROSPECTIVE JUROR: Yes.

14 MR. KLEIN: You won't assume simply because
15 the prosecution has put him on the witness stand, he
16 must be telling the truth, right?

17 PROSPECTIVE JUROR: No.

18 MR. KLEIN: And even if that person before
19 they testify gets up and says, you know, I swear --
20 I swear to tell the truth, the whole truth and
21 nothing but the truth so help me God, do you
22 understand that's not any kind of assurance that in
23 fact, they must be telling the truth, right?

24 PROSPECTIVE JUROR: Right.

25 MR. KLEIN: Can you also assure me that

1 before you believe or credit a witness who comes in
2 and testifies and says whatever he says, I saw him
3 do it or I heard he did it or whatever, you'll make
4 the prosecution prove to you, that you should
5 believe that witness, okay?

6 PROSPECTIVE JUROR: Yes.

7 MR. KLEIN: And is anyone, anyone here
8 going to say that no, if the government is putting a
9 witness on the stand, then this guy must have
10 already been tested in some way. I mean obviously
11 he must have passed some test and obviously be
12 telling the truth. You are the ones who are going
13 to decide, okay Ms. Wasserman?

14 PROSPECTIVE JUROR: Yes.

15 MR. KLEIN: If someone gets up and
16 testifies and sounds okay, but at the end you say, I
17 don't really know if I should believe that
18 testimony, then you won't hesitate to reject it,
19 right?

20 PROSPECTIVE JUROR: No.

21 MR. KLEIN: And I assume you know, all of
22 us that have lied and told fibs about things in our
23 daily life. We all have, yes?

24 PROSPECTIVE JUROR: Yes.

25 MR. KLEIN: Assume also about really

1 serious matters, we generally tell the truth, right?

2 PROSPECTIVE JUROR: Yes.

3 MR. KLEIN: Okay.

4 And you accept there are people who are so
5 unscrupulous that they would even lie about
6 something really really serious like when they are
7 giving testimony in a murder trial.

8 PROSPECTIVE JUROR: Yes.

9 MR. KLEIN: Does anyone have a problem with
10 that?

11 (No response .)

12 MR. KLEIN: One of the things the judge
13 said near the end of the judge's instructions
14 Ms. Austin, let me direct this to you, he said you
15 know in a trial, a defendant doesn't have to
16 testify. You heard that?

17 (Indicating).

18 MR. KLEIN: And the judge said not only
19 does the defendant not have to testify but if he
20 doesn't testify, you can't in any way hold it
21 against him, right. Can you follow that
22 instruction?

23 PROSPECTIVE JUROR: Yes.

24 MR. KLEIN: So let's say you are back in
25 the jury room. The case is gone on and at the end

1 you say. I don't know. I don't like him. But boy
2 you know, I don't know if he committed this murder.
3 I am confused and another juror says to you, give me
4 a break. Come on. He must have done it because if
5 he didn't do it, he would have gotten up on the
6 witness stand and denied he did it.

7 I mean, who wouldn't get up on the witness stand
8 and deny he did it if he didn't do it, right?
9 Someone who could say that.

10 PROSPECTIVE JUROR: Yes.

11 MR. KLEIN: Someone says that to you.
12 Would you tell that other person, hey, wait a
13 second. That's not fair. You all agreed that you
14 wouldn't hold it against someone who is accused of a
15 crime if he doesn't take the witness stand. Will
16 you do that?

17 (indicating).

18 MR. KLEIN: Knowing right now, any of you
19 knowing right now, I am telling you there is a great
20 possibility, a great probability, you are never
21 going to hear Mark Richardson's open his mouth in
22 the courtroom. Can you all assure me in no way in
23 no way Mr. Breza, Ms. D'Augusta Ms. Romero in no way
24 would you hold that against him? Oh, he must have
25 something to hide if he doesn't get up and talk to

1 you.

2 How about if I don't prove a lot in this case.
3 Ms. Romero, the judge said the burden is on the
4 prosecution to prove guilt beyond a reasonable doubt
5 right?

6 PROSPECTIVE JUROR: Yes.

7 MR. KLEIN: Obviously one of the things
8 that means a lawyer doesn't have to prove his
9 clients innocence, right. So if at the end of the
10 case, you say, I don't know, you know Klein, he
11 didn't do that much. I mean the DA said he was
12 going to be all sarcastic and all this stuff but
13 really, he didn't do that much during the trial.
14 You won't think in some way he must have given up on
15 the case or his client must be guilty or it's all
16 hopeless. Just understand that we follow certain
17 rules in here and you have to agree to follow them
18 if you are going to be on the jury.

19 PROSPECTIVE JUROR: Okay.

20 MR. KLEIN: You won't assume in any way by
21 my silence that it must mean that Mark Richardson
22 must have committed this crime, right?

23 PROSPECTIVE JUROR: Right.

24 MR. KLEIN: And you would hold the DA to
25 the burden of proof, yes.

1 PROSPECTIVE JUROR: Yes.

2 MR. KLEIN: If he proves the case fine, but
3 if at the end of the case, you have a reasonable
4 doubt and you say no, I am not sure if he did this,
5 you won't hesitate to acquit him, right?

6 PROSPECTIVE JUROR: That's right.

7 MR. KLEIN: Regardless of whether I have
8 done something or not spoken a lot, asked a lot of
9 questions or not asked a lot of questionless, right?

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Mr. Klein, I am sorry to
12 interrupt.

13 MR. KLEIN: Judge, I know. We have the
14 4:30 rule and I am really just about done.

15 THE COURT: Keep going.

16 MR. KLEIN: I was aware.

17 THE COURT: I don't want to cut you off.
18 We can finish on Monday.

19 MR. KLEIN: It's really just one more
20 point.

21 THE COURT: Okay.

22 MR. KLEIN: Just who else hasn't already
23 eliminated themselves in some way? Mr. Sloan, I am
24 sorry a lot of people said already they couldn't be
25 fair. One of the things that I think Mr. Bogdanos

1 dwelled on was the use of common sense, right?

2 PROSPECTIVE JUROR: Yes.

3 MR. KLEIN: He talked about you have to use
4 your common sense and when you come in here, you
5 don't leave your common sense outside. You leave
6 your prejudices and biases outside but you bring
7 your common sense in, right?

8 PROSPECTIVE JUROR: Yes.

9 MR. KLEIN: And you will use that in this
10 case, right?

11 PROSPECTIVE JUROR: Yes.

12 MR. KLEIN: Of course you know sometimes we
13 use our common sense when we are like in the grocery
14 store. We have to decide what am I going to but for
15 dinner. Use your common sense. Your wife hates
16 meat. You don't buy meat. You are going to go to a
17 movie. Use your common sense because you know what
18 kind of movie your girlfriend or boyfriend likes,
19 right and that's common sense, right?

20 PROSPECTIVE JUROR: Yes.

21 MR. KLEIN: Sometimes in life you are
22 called upon to make decisions like what kind of
23 medical care should I get for a child or what kind
24 of nursing home should I put my mother in, right,
25 and you use your common sense in those decisions

1 also, yes?

2 PROSPECTIVE JUROR: Yes.

3 MR. KLEIN: But of course you use the kinds
4 of common sense when you are using all the powers
5 that you have to make sure you are making a right
6 decision, right?

7 PROSPECTIVE JUROR: Yes.

8 MR. KLEIN: So can you assure
9 Mr. Richardson that you will use that kind of common
10 sense if you are on this jury and evaluating the
11 facts of this case?

12 PROSPECTIVE JUROR: Yes.

13 MR. KLEIN: Thank you.

14 THE COURT: Thank you, Mr. Klein. Ladies
15 and gentlemen as indicated, that will do it for
16 today. The selections are next. However, you are
17 not going to find out until Monday morning.

18 As I said, we are not going to be in session
19 tomorrow and there is not enough time today for the
20 attorneys to make their selections and to give you
21 the results. I am sorry but that's the way things
22 work around here now. We will have the results for
23 you first thing Monday morning. I ask all of you
24 and all of you out there to come in directly here to
25 our courtroom at about 9:45 on Monday morning. We

1 will get you into the courtroom as soon as we can.
2 And one more reminder a very important one, please
3 do not discuss this case with anyone between now and
4 then.

5 Monday 9:45. You don't have to come in for jury
6 duty tomorrow. You have the day off but you do come
7 back here on Monday. All right. If you have
8 questions, the officers there will take them outside
9 and we will bring you in if necessary.

10 (Prospective jurors exit the courtroom at this
11 time.)

12 MR. BOGDANOS: We don't even get to do our
13 selections?

14 THE COURT: We have to shutdown the
15 courtroom.

16 Time-out. We have one quick juror who wants to
17 come in with a question.

18 COURT OFFICER: Juror entering.

19 THE COURT: Mr. Li?

20 PROSPECTIVE JUROR: After hearing some of
21 the allegations some of the things that were brought
22 up, I don't think I could stay unbiased. I just got
23 back from China and I visit my grandmother.

24 THE COURT: We accept you at your word but
25 for legal reasons, you still have to come back on

1 Monday.

2 PROSPECTIVE JUROR: To tell you the same
3 thing?

4 THE COURT: Let me ask you, do both sides--

5 MR. BOGDANOS: Consent.

6 MR. KLEIN: I consent.

7 THE COURT: We will find your ballet. You
8 come back tomorrow and maybe jury duty will be over
9 tomorrow.

10 PROSPECTIVE JUROR: All right. Same room
11 right here?

12 I came from Thomas Street.

13 COURT OFFICER: Come tomorrow, third floor.

14 THE COURT: Thank you, very much, Mr. Li.

15 (Prospective juror exits the courtroom at this
16 time.)

17 THE COURT: That's it. You can take
18 Mr. Richardson down. Bring him back Monday.

19 (Whereupon the case is adjourned to September 12,
20 2011.)


21 * * *

22 CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPT.

23

24

25


CLAUDINE Y. DAVIDSON
SENIOR COURT REPORTER

Proceedings

1

SUPREME COURT
TRIAL TERM

NEW YORK COUNTY
PART 45

-----X
THE PEOPLE OF THE STATE OF NEW YORK : INDICTMENT #
: 3534/08

AGAINST

MARK RICHARDSON,

Defendant.

:
: CHARGE
: MURD 2

-----X TRIAL/VOIR DIRE

111 Centre Street
New York, New York 10013
September 12, 2011

B E F O R E:

HONORABLE BRUCE ALLEN
JUSTICE OF THE SUPREME COURT

APPEARANCES:

For the People:

CYRUS VANCE, ESQ.,
New York County District Attorney
One Hogan Place
New York, New York 10013
BY: MATTHEW BOGDANOS, ESQ.
Assistant District Attorney

For the Defendant:

THE LEGAL AID SOCIETY
49 Thomas Street
New York, New York 10013
BY: THOMAS KLEIN, ESQ.
Of counsel

Penelope Messina,
Senior Court Reporter

Proceedings

2

1 (Continuation of Voir Dire from
2 September 8, 2011.)

3 THE COURT CLERK: Case on trial, your Honor.

4 THE COURT: Good morning, Mr. Richardson.

5 THE DEFENDANT: Good morning Mr. --

6 THE COURT CLERK: Case on trial continued. People
7 of the State of New York against Mark Richardson. The
8 defendant, his attorney, and the assistant district attorney
9 are present. The jury is not present at this time.

10 MR. BOGDANOS: Matthew Bogdanos for the People.
11 Good morning.

12 MR. KLEIN: Legal Aid Society, Thomas Klein.

13 MS. LEGLER: Sarah Legler, L-E-G-L-E-R. Good
14 morning.

15 THE COURT: Before we start with your selections
16 one of the jurors, No. 16, Ms. Daugusta indicated to one of
17 the officers that she had something she wanted to tell us.
18 I propose we bring her in first and then hear what she has
19 to say. Agreed?

20 MR. KLEIN: Yes.

21 THE COURT: Mr. Bogdanos?

22 MR. BOGDANOS: Yes. Yes.

23 THE COURT: This is off the record the record.
24 (Off-the-record discussion.)

25 THE COURT OFFICER: Juror entering.

Proceedings

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1 (Prospective juror entered the courtroom.)

2 THE COURT: Ms. DeGusta, good morning to you.

3 Welcome back. Is there something you want to say?

4 PROSPECTIVE JUROR: Yes, I wanted to confirm the
5 time length for the trial. I found out on Friday I am going
6 to be transitioning into another position in work starting
7 the first week of October; and I wanted to see if that would
8 conflict.

9 THE COURT: You are worried we won't be finished
10 before the first of October?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Have no fears.

13 PROSPECTIVE JUROR: Okay. All right then, I am
14 fine.

15 THE COURT: The schedule given last week still is
16 in play. All right?

17 PROSPECTIVE JUROR: Yeah.

18 THE COURT: Thank you very much.

19 (Prospective juror exited the courtroom.)

20 THE COURT OFFICER: Your Honor, one moment.

21 THE COURT: Back on the record. Now Mr. -- No. 4
22 Mr. Palumbo has also indicated he would like to have a word
23 with us. Please bring in Mr. Palumbo.

24 THE COURT OFFICER: Juror entering.

25 (Prospective Juror entered the courtroom.)

Proceedings

4

1 THE COURT: Good morning, Mr. Palumbo. What did
2 you want to say?

3 PROSPECTIVE JUROR: Huh?

4 THE COURT: Or tell us.

5 PROSPECTIVE JUROR: I wasn't clear on the start
6 date and so I have a referral form from my doctor to see a
7 heart specialist. I have it with me to see him and I wasn't
8 sure of the start date of the trial; so when you were
9 talking about it I thought it was starting maybe in a week
10 or two; and so I thought I didn't know if I should go to the
11 doctor or if I should wait.

12 THE COURT: When is your appointment? You haven't
13 made it yet?

14 THE DEFENDANT: I haven't made it. I have the
15 referral form and I would make it this week if I can; and if
16 I can't, I just need to know the start date basically.

17 THE COURT: We are on trial now. I mean there is
18 no delay here. We are going forward everyday this week.

19 PROSPECTIVE JUROR: So my question was I didn't
20 realize that.

21 THE COURT: But I do.

22 PROSPECTIVE JUROR: There are other jurors. I
23 asked other jurors. They weren't clear as to when the start
24 date was either so.

25 THE COURT: Well, let me ask you. I think we will

Proceedings

5

1 be down this Friday. If you want if it is possible to
2 schedule it for this Friday?

3 PROSPECTIVE JUROR: It is. I could try that.

4 THE COURT: But every other day we expect to be on
5 trial?

6 PROSPECTIVE JUROR: Every other Friday?

7 THE COURT: No, every other Monday, Tuesday,
8 Wednesday, Thursday.

9 PROSPECTIVE JUROR: But every Friday it's possible
10 to schedule the appointment on any Friday?

11 THE COURT: Well, the twenty-third we may be in
12 session so I wouldn't -- I wouldn't schedule it for that day
13 necessarily; but again we don't want to cause any health
14 problems for you; so if the doctor says I could only do it
15 on a certain day, then that's the day you do it. We don't
16 want you to put it off and jeopardize your health.

17 PROSPECTIVE JUROR: I will have to call him.

18 THE COURT: Best would be early in the morning so
19 then you could still come here?

20 PROSPECTIVE JUROR: What time does the trial start
21 in the morning?

22 THE COURT: Usually 9:45.

23 MR. BOGDANOS: There was one issue with regard to
24 tomorrow. Mr. Klein was about to mention to your Honor and
25 I think due to -- had nothing to do with this case, I think

Colloquy

6

1 we were planning starting at 11:00 tomorrow; so if
2 Mr. Palumbo would be able to get a doctor's appointment,
3 finish eleven tomorrow or anytime Friday, that would
4 solve --

5 THE COURT: That's another --

6 PROSPECTIVE JUROR: Okay, I will try.

7 THE COURT: That's another possibility. Thank
8 you, Mr. Palumbo; but, Mr. Palumbo, whatever you get, we
9 will work around. That's my message.

10 PROSPECTIVE JUROR: Okay, thank you.

11 THE COURT: You are welcome.

12 MR. BOGDANOS: That's what he was about to ask you
13 if we could start tomorrow at 11:00. I have no problem with
14 that.

15 THE COURT: All right.

16 MR. BOGDANOS: With the timing and the fact we
17 only have the defendant for a certain period of time, I
18 didn't get things on the record. I got them on Thursday
19 because we went right to 4:29. I got to put them on the
20 record please, 60 seconds.

21 THE COURT: Go ahead.

22 MR. BOGDANOS: Thank you, Judge. First, the
23 People had intended on referring to Mr. Richardson on any
24 videotape as the tall black male approximately six foot five
25 wearing a green army jacket and blue jeans. That's how he

1 appears on the video; both counsel.

2 Mr. Klein and I are well aware of People versus
3 Coleman; but since there isn't any issue at all with
4 Mr. Richardson on the video, Mr. Klein has informed me that
5 it is just too cumbersome and makes no sense so we are going
6 to refer to Mr. Richardson on the video so we don't want
7 your Honor to think we are not aware of People versus
8 Coleman. We are. We recognize it is not an issue in this
9 case.

10 Secondly, I have turned over to Mr. Klein this
11 morning some additional Rosario material. The interns of
12 the law schools I had watching the video took notes on, you
13 know, they typed up notes on the various video sections they
14 watched. I turned those over to Mr. Klein. He has the --
15 he had last week the final compiled list, but he didn't have
16 all the drafts; so I have given him that this morning.

17 Also, there are two additional charges I mentioned
18 to your Honor and Mr. Klein last week concerning DNA.
19 Rather than have the DNA expert list each piece of
20 evidence -- and there were dozens and dozens -- I have
21 created summary charts that I promised your Honor and
22 Mr. Klein would shorten -- simplify shorten, make the trial
23 more efficient.

24 I emailed those to the DNA people, the Office of
25 Chief Medical Examiner. They emailed me back. Said it

1 looks good. Change this. Change that. I have given those
2 emails to Mr. Klein this morning.

3 In Mr. Klein's motion on third party guilt,
4 he had -- that was filed on the eighth. He had indicated
5 that he has never received anything concerning the criminal
6 history of Desiree Allen. I know he prepared that on the
7 sixth, on the 6th of September. I turned over, even though
8 we are not calling Desiree Allen, you know my feeling on
9 discovery. If I have it, you can have it. I turned over
10 all Ms. Allen's prior criminal history even though we are
11 not calling her; her arrest reports, her criminal history
12 sheet.

13 With regard to the informant there is no
14 cooperation agreement in place yet. It's, you know, a
15 stepped process. Until there is a cooperation agreement, I
16 can't put them in protective custody. Until I put them in
17 protective custody, I can't release the name to Mr. Klein
18 and all the material -- and give him all the material.

19 I expect that to happen by Friday. I want to be
20 abundantly clear I am doing exactly what Mr. Klein asked. I
21 am printing everything. We have complaints, DA data sheets
22 on all his New York County cases; and I am getting arrest
23 reports and Certificates of Conviction on all of the New
24 York County cases; so he is going to have everything from
25 the DA's Office, everything that exists; and finally with

Colloquy

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1 regard to Matthew Lacks, Mr. Klein and I have spoken off the
2 record extensively but the record should be clear in his
3 moving papers, he indicates that the original Assistant
4 District Attorney Ms. O'Connell had originally said that
5 there was a profile, an exemplar of Mr. Lacks given to the
6 ME's Office and, in fact, there was not an exemplar.

7 Mr. Lacks is just another, you know, potential
8 third party person. There was not an exemplar but I didn't
9 want to miss -- that's true, we never got an exemplar from
10 Mr. Lacks. He never consented. Never enough to get a Court
11 order. No one ever got an exemplar but his profile is in
12 the state DNA data bank.

13 I did provide that last week to Mr. Klein; and so
14 just so we are clear for the record we all know he is --
15 Mr. Lacks is in the data bank. It's just that an exemplar
16 wasn't provided from him, so I think without that the record
17 might have been a little fuzzy. That's all I have. Thank
18 you.

19 THE COURT: Thank you. Mr. Klein.

20 MR. KLEIN: I don't have any answers to two quick
21 things. We will be requesting the Court to issue a decision
22 on the Brady motion and on our position that the information
23 about Mr. Gotler should be put before the jury; that that be
24 done before opening statements because it can impact on
25 opening statements; and the other thing is I just want to

1 explain about tomorrow why I am requesting the eleven
2 o'clock call.

3 What happened is the list of potential witnesses
4 was given over I think on Thursday, and Thursday I saw the
5 ME who -- the other district attorney I believe who had the
6 case planned to call wasn't being called. I contacted the
7 ADA. He told me that person was retired. He is using
8 Dr. Graham.

9 I assume Mr. Bogdanos had thought it was
10 communicated to me but it never was. I had spoken
11 extensively with the previous medical examiner who I
12 expected to be the witness; and now I immediately contacted
13 Dr. Graham. I said I need to come talk to you because I
14 can't do openings without speaking to you. Can you meet me
15 on Friday? Unfortunately, he wasn't in on Thursday with the
16 message. He got back and said he couldn't meet on Friday.
17 I said the case is going on early the morning either Monday
18 or Tuesday.

19 Since we already had the jury come in 9:30
20 tomorrow, I said I could do it as early as you can be
21 Tuesday morning. He said he would meet with me before Court
22 opened; so I think it will make me an hour and a half, two
23 hours. We are meeting eight o'clock in the morning. Eleven
24 would be a safe time.

25 THE COURT: That's fine.

Colloquy

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1 MR. KLEIN: I am sorry, I always talk to the ME in
2 advance of trial. I didn't know there was a change.

3 MR. BOGDANOS: No objection whatsoever. I did not
4 know he had not been informed Dr. Taranchida had been
5 retired.

6 THE COURT: Do you wish to respond in writing to
7 the Brady motion?

8 MR. BOGDANOS: Not in writing, Judge, but I do
9 have very detailed --

10 THE COURT: You already --

11 MR. BOGDANOS: By line response prepared and the
12 reason I say not in writing because I actually think some of
13 the material that Mr. Klein has -- listen, it is not
14 intentional but some of it is just wrong and in fairness to
15 Mr. Klein I see why some of -- he makes some of the
16 arguments he does based on the reading of the material.

17 I, obviously, have the benefit that Mr. Klein
18 doesn't have, actually spoken to the people who wrote the
19 material upon Mr. Klein basing his argument; so there is no
20 way to put all of that in writing.

21 The easier way I am happy to go explain to
22 Mr. Klein exactly what -- where some of the things he thinks
23 happened didn't actually happen; and some follow-ups I did
24 that were not recorded; so I actually think on the motion
25 itself at the end of the day there may not -- there will be

Voir Dire - Selection

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1 some things left to rule on; but not as much as the motion
2 itself would otherwise indicate; so I am ready to do that
3 when your Honor wants. Not now. We have a jury sitting
4 outside. Whatever you want, I am ready to do that.

5 THE COURT: We will try to get to that later
6 today.

7 MR. KLEIN: Just so the Court knows regarding the
8 first twelve people in the box there are agreements on three
9 challenges for cause between the district attorney and
10 myself, which I could put on the record now.

11 THE COURT: Thank you very much.

12 MR. KLEIN: There is also actually a forth we
13 agree on but that's not in the first twelve. We agree that
14 No. 3 --

15 THE COURT: Wildenstein.

16 MR. KLEIN: And No. 7.

17 MS. LEGLER: Infante, and that No. 12, Mr. Minaya
18 all have to be challenged for cause.

19 THE COURT: Yes, I have little x's by the names
20 but I don't recall the reasons why.

21 THE COURT OFFICER: No. 2 is still missing. You
22 will have the board in five seconds.

23 THE COURT: Mr. --

24 MR. KLEIN: Judge, I should say though there is I
25 believe probably no agreement about another one, which is

1 No. 2, the individual Mr. Celio who said --

2 THE COURT: We didn't get to it. We didn't get to
3 challenges yet.

4 MR. KLEIN: I know. I am just saying Celio. We
5 haven't resolved the whole issue.

6 MR. BOGDANOS: He is not even here. You want me
7 to challenge him for cause? If you are challenging for
8 cause, I will consent.

9 MR. KLEIN: Okay.

10 MR. BOGDANOS: I was going to ask to have him come
11 in. Did you follow the day's proceedings? He is the one
12 who told us he is spacing out.

13 THE COURT: I remember ADD. Both sides agree to
14 excuse, Mr. Celio?

15 MR. KLEIN: Yes.

16 MR. BOGDANOS: Yes.

17 THE COURT: You have the board now.

18 THE COURT CLERK: Who has been challenged for
19 cause?

20 THE COURT: Parties have excused two, three, seven
21 and twelve; Celio, Wildenstein Infante and Minaya. As to
22 the remaining jurors, do you have any challenges for cause,
23 Mr. Bogdanos?

24 MR. BOGDANOS: Yes, Mr. Hernandez. Same reasons
25 as the others.

Voir Dire - Selection

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1 THE COURT: No. 13?

2 MR. BOGDANOS: Yes.

3 MR. KLEIN: Agreed.

4 THE COURT: Mr. Hernandez is excused. Anyone else
5 for cause, Mr. Bogdanos?

6 MR. BOGDANOS: No, your Honor.

7 THE COURT: Any cause challenges, Mr. Klein?

8 MR. KLEIN: No.

9 THE COURT: Peremptory challenges, Mr. Bogdanos?

10 MR. BOGDANOS: Yes, your Honor, No. 6, Ms. Austin;
11 and No. 8, Mr. Breza, and that's it.

12 THE COURT: Mr. Klein, peremptories? Take your
13 time.

14 (Defense Attorney Klein conferred with defendant.)

15 THE COURT: All right, Mr. Klein.

16 MR. KLEIN: No. 1, Chevel; No. 5, Ms. Vincent;
17 No. 9, Ms. Clagett; and No. 10, Ms. Wasserman.

18 THE COURT: The other jurors are acceptable?

19 MR. BOGDANOS: Yes.

20 THE COURT: Mr. Palumbo is seated Juror No. 1,
21 Ms. Blank --

22 MR. KLEIN: Judge, by the way I assume we just did
23 twelve?

24 THE COURT: No, I said everyone because we only
25 had twelve left.

Voir Dire - Selection

15

1 MR. KLEIN: Okay.

2 THE COURT: You have more peremptories. The
3 district attorney had done the whole board his perempts.

4 MR. BOGDANOS: Yes.

5 MR. KLEIN: Okay.

6 (Defense Attorney Klein conferred with defendant.)

7 MR. KLEIN: So No. 14, Mr. Sloan.

8 THE COURT: Fifteen and sixteen are acceptable?

9 MR. KLEIN: Yes.

10 THE COURT: So 15, Romero becomes seat No. 3;
11 Daugusta, Juror No. 4.

12 MR. BOGDANOS: Judge, I have an application. I am
13 so sorry to do this. In the process -- but I am
14 particularly sorry to do this because of my respect for
15 Mr. Klein -- unless I am mistaken, Mr. Klein had four white
16 females available and challenged all four; so four for four.
17 We are clear that that raises the specter of Batson; so I am
18 asking for a facially -- a neutral reason for those four
19 challenges.

20 MR. KLEIN: Judge, I don't think that raises the
21 specter of anything and I don't think I should be required
22 because I challenged four women and one man that, that
23 raises the initial specter of anything or satisfies his
24 initial first burden.

25 MR. BOGDANOS: Well, okay, I am sorry.

1 MR. KLEIN: I am saying there is 11 -- Ms. Blank,
2 she is a white female. I assume she is there.

3 MR. BOGDANOS: Actually, the Court is precise as
4 of that particular challenge. Once you get to
5 Mr. Wasserman -- Ms. Wasserman there were four white females
6 available to the defense. All four were challenged. I
7 don't think there is a question as to whether or not that's
8 a Level I showing. I mean that's not even an argument. If
9 I did that, I would stand up and say here are my reasons
10 because it's obvious four out of four.

11 You can't get better than four out of four. We
12 know two out of three is enough. We know three out four is
13 enough; so the Court of Appeals rules four out of four is
14 clearly -- and I am making this abundantly clear -- I am not
15 in anyway suggesting Mr. Klein in anyway is inappropriate.
16 I am just saying his burden at this point, I made a Level I
17 showing. It's his burden to explain the reasons that are
18 not based on race or gender.

19 MR. KLEIN: Judge, I understand that's what he
20 said, but I didn't do a Level I. I don't think you do it by
21 the first two. You do it by what's on the board.
22 Ms. Blank, Ms. Daugusta are two white people on the jury I
23 didn't ask to get off so I don't think he went forward to
24 making a burden one showing.

25 (Defense Attorney Klein conferred with defendant.)

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1 THE COURT: The application is denied. I don't
2 believe -- I don't believe a prima facie case or Level I
3 challenge has been made.

4 MR. BOGDANOS: Just so I am clear cause we have a
5 future round, four out of four in this courtroom, four
6 available, four challenges not a prima facie showing?

7 THE COURT: No. I think you look at the entire
8 group of sixteen and then you make your --

9 MR. BOGDANOS: Fine.

10 THE COURT: Your --

11 MR. BOGDANOS: Okay. So again, Judge, I am just
12 being clear for the record so if it's not four out of four,
13 the only other white female is Ms. Daugusta so four out of
14 five. I don't accept your Honor's version of the law. I
15 think it's as of that last selection, but I will accept it.
16 Four out of five is not enough.

17 THE COURT: I believe there is one more,
18 Mr. Bogdanos, No. 11, Ms. Blank. I have her down as a white
19 woman.

20 MR. BOGDANOS: So four -- I am sure you are right
21 so four out of six is not sufficient in this courtroom?

22 THE COURT: No. You show me a case that's
23 otherwise. I will certainly read it.

24 MR. BOGDANOS: That's a deal. That's a deal. I
25 want to make sure when it's the other way around, four for

Voir Dire - Selection

18

1 six is not enough. Got it.

2 THE COURT: Dealing with white woman.

3 MR. BOGDANOS: Or actually any black males, black
4 woman, Asian females it doesn't matter. The standard is the
5 same. Can I at least get the Court we agree the standard is
6 the same regardless of race and gender?

7 THE COURT: This is the most slippery -- slippery
8 area of the law known to man.

9 MR. BOGDANOS: Agreed.

10 THE COURT: And women. So any case you have --

11 MR. BOGDANOS: Agreed.

12 THE COURT: -- I will be happy to look at. Now
13 off the record for a second.

14 (Off-the-record discussion.)

15 THE COURT: Are both sides ready for the jury?

16 MR. BOGDANOS: Yes, Judge.

17 MR. KLEIN: (Nod head affirmatively up and down.)

18 THE COURT: Before we do that, we have a couple of
19 quick adjournments. Jeanette, two adjournments, please.

20 (Pause in the proceedings.)

21 THE COURT: All right, now we are ready for the
22 panel. Thank you.

23 THE COURT OFFICER: Jurors entering.

24 (Jury entered the courtroom.)

25 THE COURT CLERK: Case on trial continued. The

Voir Dire - Selection

19

1 People of the State of New York against Mark Richardson.
2 The defendant, his attorneys, and the assistant district
3 attorney are present. All jurors are present.

4 THE COURT: Well most of them.

5 THE COURT CLERK: Most jurors are present.

6 THE COURT: Close enough. Ladies and gentlemen,
7 first of all an apology to everyone. I know you have been
8 waiting a long time to come into the courtroom. The parties
9 have been waiting too. I was stuck in traffic this morning.
10 I think it's sort of a hold over from yesterday; but there
11 were numerous check points, whatever they call them, and
12 literally took me two hours to drive in, so it was my fault;
13 and I want you all to know that because I don't want you to
14 be speculating or to assess blame against one side or the
15 other. They are not at fault. In fact, they have made
16 their selections.

17 I should also add it doesn't affect the trial
18 schedule one bit. They have made their selections and in a
19 moment our clerk will announce the results; however, four of
20 you were selected and twelve were not. To the twelve who
21 were not, especially anyone who may be doing this for the
22 first time just a couple of words, there should be no hard
23 feelings about any of this. No one should feel insulted or
24 slighted; and certainly just because you were not selected
25 for this case does not mean you won't be selected for some

1 other case down the line.

2 The truth is that the law does give the attorneys
3 a little bit of a discretion when they are making these
4 selections and that scrutiny or discretion is always at its
5 greatest once the first group comes up for consideration; so
6 a lot of this jury selection process really does depend on
7 the luck of the draw when your ballot comes out of the
8 wheel. Everyone, all sixteen of you -- well, we are missing
9 one -- he participated too. Everyone participated during
10 the questioning, and I thank you for doing that.

11 That's what makes our system so special and the
12 good news if you were not selected, the odds are very much
13 in your favor that you will be excused when you get back to
14 the jury room. All right, Jeanette, the results, please.

15 THE COURT CLERK: Will the following jurors please
16 remain seated Michael Palumbo, Helena Blank, Jill Romero,
17 and Darcie Daugusta. The rest of you may report back to the
18 central jury room.

19 (Prospective jurors exited the courtroom.)

20 THE COURT: Are the remaining jurors satisfactory
21 to the People?

22 MR. BOGDANOS: They are to the People. Thank you,
23 your Honor.

24 THE COURT: To the defendant?

25 MR. KLEIN: Yes.

Voir Dire - Selection

21

1 THE COURT CLERK: Jurors, stand to be sworn or
2 affirmed.

3 (Jurors were duly sworn and/or affirmed.)

4 JURORS: Yes.

5 THE COURT: Thank you. You may be seated. I have
6 a very brief announcement for the four of you. I have
7 discussed this with the attorneys; and we do believe that we
8 are going to have to spend the rest of the day picking the
9 other jurors, so we do not need you to be here physically
10 while we do this. In fact, I am going to let all of you go
11 now with the understanding that you will be back here
12 tomorrow morning.

13 We are going to start a little bit later for
14 scheduling reasons at eleven o'clock tomorrow so please come
15 back at 11:00 tomorrow. Wait right outside. The other
16 jurors should be there as well. On your way out one of the
17 other officers needs to get questions answered; contact
18 information. That won't take long. See you tomorrow
19 morning. Please do not discuss the case with anyone between
20 now and then.

21 All right, any questions for me before you leave?
22 Great. See you tomorrow morning.

23 (Jurors exited the courtroom.)

24 THE COURT: I could start the preliminary. We are
25 going to ask eighteen to come forward this time. We call it

1 round two. The ballots are in the wheel so it will be one
2 through nine and ten through eighteen in the back row.
3 Before we go to the wheel, all of you have had quite a bit
4 of time to think about the case, to think about whether it's
5 the right case for you. You have heard the questions that
6 were asked of the first group and the answers given. If
7 anyone -- and you have seen the four take the oath. If any
8 of you would hesitate to take that oath for any reason, you
9 may tell us now. Yes, sir, your name?

10 PROSPECTIVE JUROR: John Li. You actually excused
11 me on Thursday and told me to come back today to get my
12 ballot.

13 THE COURT: That's true. That's still good.

14 THE COURT OFFICER: All right.

15 THE COURT: Mr. Li, we will find it. John Li.
16 It's L-I. Again there are way more than eighteen. If you
17 were not part of the second round please stay around here
18 because I think there will probably be a third round as
19 well.

20 Mr. Li, we don't have it so we think it was sent
21 already. We will check for you.

22 PROSPECTIVE JUROR: Okay.

23 (Pause in the proceedings.)

24 THE COURT: Now we are going to go to the wheel,
25 eighteen.

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23

1 THE COURT CLERK: Seat No. 1 in the jury box
2 please Lucy Armstrong, A-R-M-S-T-R-O-N-G; seat No. 2, James
3 Hedges, H-E-D-G-E-S; seat No. 3, Michael Peters,
4 P-E-T-E-R-S; seat No. 4 --

5 THE COURT: I am sorry I didn't catch that name?

6 THE COURT CLERK: Michael Peters. Isadoro
7 Guzman, G-U-Z-M-A-N, seat No. 4; Berlin Ando, A-N-D-O.
8 Ms. Ando.

9 THE COURT: No response.

10 THE COURT CLERK: Kenneth Rose, R-O-S-E, seat No.
11 5; Victor Huang, H-U-A-N-G, seat No. 6; John Weiner,
12 W-E-I-N-E-R, seat No. 7; Keyia Brown, B-R-O-W-N, seat No. 8;
13 Che Ling, L-I-N-G, seat No. 9; Adam Schuster,
14 S-C-H-U-S-T-E-R, seat No. 10; seat No. 11, Lourdine Haney,
15 H-A-N-E-Y, L-O-U-R-D-I-N-E; seat No. 12, Esmeralda
16 McCormick, M-C-C-O-R-M-I-C-K; seat No. 13, Kaman Lam, L-A-M,
17 seat No. 13, K-A-M-A-N, first name; Luis Gallegos,
18 G-A-L-L-E-G-O-S, seat No. 14; Yan Lee, L-E-E, seat No. 15;
19 Benjamin Warheit, W-A-R-H-E-I-T; Jason Lanzetta, I am sorry
20 L-A-N-Z-E-T-T-A, seat No. 17; Shanequa McIntosh,
21 M-C-I-N-T-O-S-H, S H A N E Q U A, seat No. 18.

22 THE COURT: Good morning again, ladies and
23 gentlemen. I am going to ask the same questions that I
24 asked of the first group. Starting out once again with the
25 questions about yourselves. I guess it will get you talking

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1 a little bit and the attorneys will find out something about
2 you. The categories are as follows. Number one, living
3 arrangements; No. two, occupation; No. three is
4 neighborhood; No. four, educational background; number five
5 is spare time activities; number six, organizations and,
6 finally, number seven, current events. If you want to
7 volunteer the information, you can take them in any order or
8 I could just run through it question and answer but no
9 matter what, we are going to start with you, Ms. Armstrong.
10 Good morning.

11 PROSPECTIVE JUROR: Hi.

12 THE COURT: Do you live alone or with some one
13 else?

14 PROSPECTIVE JUROR: I live with two roommates.

15 THE COURT: Which neighborhood?

16 PROSPECTIVE JUROR: East Village.

17 THE COURT: Occupation?

18 PROSPECTIVE JUROR: Fashion stylist.

19 THE COURT: Highest degree?

20 PROSPECTIVE JUROR: Bachelor of Fine Arts.

21 THE COURT: Spare time activities?

22 PROSPECTIVE JUROR: Travel. I do a lot of
23 free-lance work because I work a lot. Tennis. Walk
24 outside.

25 THE COURT: Any organizations?

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1 PROSPECTIVE JUROR: No.

2 THE COURT: Do you keep up with current events?

3 PROSPECTIVE JUROR: Maybe like a couple times a
4 week. I don't have a television so I just look at it
5 on-line. It is not too much.

6 THE COURT: You read the papers too?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Thank you, Ms. Armstrong. Mr. Hedges,
9 do you live alone or with someone else?

10 PROSPECTIVE JUROR: I live with my grandmother.

11 THE COURT: Which neighborhood?

12 PROSPECTIVE JUROR: Kips Bay.

13 THE COURT: What's your occupation?

14 PROSPECTIVE JUROR: Loss prevention for Best Buy.

15 THE COURT: Highest degree?

16 PROSPECTIVE JUROR: High school.

17 THE COURT: Interest?

18 PROSPECTIVE JUROR: Activities?

19 THE COURT: Yes.

20 PROSPECTIVE JUROR: Biking.

21 THE COURT: Organizations?

22 PROSPECTIVE JUROR: I belong to the auxiliary
23 police program and NYPD Explorers.

24 THE COURT: Do you try to keep up with current
25 events?

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1 PROSPECTIVE JUROR: Yes. I read the news every
2 morning.

3 THE COURT: I am sorry.

4 PROSPECTIVE JUROR: I read it on my phone every
5 morning.

6 THE COURT: Very good. Thank you. Mr. Peters.

7 PROSPECTIVE JUROR: Good morning.

8 THE COURT: Good morning.

9 PROSPECTIVE JUROR: I live with my wife. Sutton
10 Place, neighborhood midtown east. Technology entrepreneur.
11 I have a Master's Degree.

12 THE COURT: Free time?

13 PROSPECTIVE JUROR: Travel and athletics.
14 Organizations, I am on the Alumni Board of Governors for the
15 University of Chicago; and I am Board of Directors for Delta
16 Kapa Epsalan (phonetic).

17 THE COURT: You keep up with current events?

18 PROSPECTIVE JUROR: I read the Economist, Times
19 Wall Street Journal daily.

20 THE COURT: Thank you, Mr. Peters. Mr. Guzman.

21 PROSPECTIVE JUROR: I live with my wife,
22 Washington Heights. Occupation is parking attendant. Free
23 time is watching TV, baseball.

24 THE COURT: Your highest degree?

25 PROSPECTIVE JUROR: Eighth grade.

1 THE COURT: And do you -- are you active in any
2 organizations?

3 PROSPECTIVE JUROR: No. No organizations.

4 THE COURT: Do you keep up with current events?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Not at all?

7 PROSPECTIVE JUROR: (Nod ead negatively back and
8 forth.)

9 THE COURT: You read the sports pages? You could
10 flip it over to the front page, no? Do you do that a little
11 bit?

12 PROSPECTIVE JUROR: A little bit.

13 THE COURT: All right. Thank you. Ms. --
14 Mr. Rose?

15 PROSPECTIVE JUROR: Yes. I live in Harlem.
16 Highest grade I went to was two years of college taking up
17 computer science. I live alone. I like sports. My
18 occupation, I am unemployed right now, and I do read current
19 events daily and --

20 THE COURT: You belong to any organizations?

21 PROSPECTIVE JUROR: No organizations.

22 THE COURT: What kind of work did you do or are
23 you looking for?

24 PROSPECTIVE JUROR: I use to work for the Parks
25 Department.

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1 THE COURT: Thank you. Mr. Huang?

2 PROSPECTIVE JUROR: Okay, I live --

3 THE COURT: Nice and loud so they could hear you.

4 Where do you live?

5 PROSPECTIVE JUROR: I live in Chinatown, yeah,
6 with my wife and my children.

7 THE COURT: How many kids?

8 PROSPECTIVE JUROR: Three. It's sometimes we are
9 talking too much.

10 THE COURT: Its hard to hear you.

11 MR. KLEIN: I can't understand.

12 THE COURT: Have you been able to follow so far --

13 PROSPECTIVE JUROR: Yeah, sometime.

14 THE COURT: -- English? May I ask you this, do
15 you think your English is strong enough to be deliberating
16 in English with your fellow jurors or you think it might be
17 a problem for you?

18 PROSPECTIVE JUROR: Right.

19 THE COURT: Which, a problem?

20 PROSPECTIVE JUROR: Yes, it's a problem.

21 THE COURT: All right both sides?

22 MR. BOGDANOS: Consent.

23 MR. KLEIN: Yes.

24 THE COURT: You are excused, Mr. Huang. Thank you
25 very much.

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1 MR. BOGDANOS: Judge, may we ask that we fill the
2 seat.

3 THE COURT: Yes, we are going to go to the wheel.

4 MR. BOGDANOS: Thank you, Judge.

5 (Prospective juror exited the courtroom.)

6 THE COURT CLERK: Wing Ma, W-I-N-G, M-A.

7 THE COURT: Mr. Ma, come on up. How are you? All
8 right, Mr. Ma, you are in the hot seat. Are you ready?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Go ahead. You live alone or with
11 someone else?

12 PROSPECTIVE JUROR: I am living in Chinatown with
13 my mother, my wife, and three children.

14 THE COURT: Are you working?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: What do you do?

17 PROSPECTIVE JUROR: An editor in a Chinese news
18 room.

19 THE COURT: What is your highest level of
20 education?

21 PROSPECTIVE JUROR: Bachelor Degree.

22 THE COURT: What do you like to do when you are
23 not at work?

24 PROSPECTIVE JUROR: Having a good time with my
25 children.

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1 THE COURT: Do you belong to any organizations?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Do you -- you do keep up with current
4 events I would imagine?

5 PROSPECTIVE JUROR: Yes, because I am working for
6 news room. I must read newspaper.

7 THE COURT: Everyday?

8 PROSPECTIVE JUROR: Yeah, everyday.

9 THE COURT: All right, thank you, sir.
10 Mr. Weiner?

11 PROSPECTIVE JUROR: Yes, I live on the east side,
12 midtown with my girlfriend. I am an attorney, a tax
13 attorney. Highest level of education is LLM. In my spare
14 time I like sports, culture and travel; and organizations
15 would be New York City Bar and American Bar Association.

16 THE COURT: You keep up with --

17 PROSPECTIVE JUROR: I keep up with current events
18 constantly.

19 THE COURT: In your legal career any litigation
20 matters, civil or criminal?

21 PROSPECTIVE JUROR: Civil, yes.

22 THE COURT: Criminal?

23 PROSPECTIVE JUROR: No.

24 THE COURT: All right, thank you. Ms. Brown?

25 PROSPECTIVE JUROR: Good morning. I live in

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1 Harlem with my two children. I completed two years of
2 college. I am self-employed. I braid hair. My free time I
3 like to take my children to play things; and I read the
4 paper.

5 THE COURT: Daily?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Do you have any organizations?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Thank you, Ms. Brown.

10 MR. BOGDANOS: I couldn't hear after
11 self-employed?

12 PROSPECTIVE JUROR: I am self-employed. I braid
13 hair?

14 MR. BOGDANOS: What else?

15 THE COURT: No, that's it. You hit them all.

16 MR. BOGDANOS: Thank you.

17 THE COURT: No. 9, Mr. Ling?

18 PROSPECTIVE JUROR: Good morning. I live on West
19 42nd Street with my wife and one son, two years old. I got
20 Associate Degree. No organization. Free time; Internet,
21 bowling; and current events, I never read papers but I read
22 from the Internet. Only the big events like 911, hurricane.
23 Something like that.

24 THE COURT: Where do you work?

25 PROSPECTIVE JUROR: I am bookkeeper in

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1 construction company.

2 THE COURT: Thank you. Back row, Mr. Schuster?

3 PROSPECTIVE JUROR: Good morning, your Honor.

4 THE COURT: Good morning.

5 PROSPECTIVE JUROR: I live with my wife on the
6 upper east side. I am an attorney who has a Legal Aid
7 Society job not profit in East Harlem. Highest degree Juris
8 Doctorate. Hobbies, I play golf regularly, poorly. Avid
9 reader of history novels. Association, New York State Bar
10 Association.

11 THE COURT: Current events?

12 PROSPECTIVE JUROR: Thank you. I keep up with the
13 news pretty regular. Internet, television, books,
14 newspapers.

15 THE COURT: Again in your legal career, any
16 criminal law matters?

17 PROSPECTIVE JUROR: No, not criminal.

18 THE COURT: But litigation?

19 PROSPECTIVE JUROR: Not -- when I was in law
20 school, I spent the summer working in Nassau County on 1983
21 matters.

22 THE COURT: All right, thank you very much.
23 Ms. Haney?

24 PROSPECTIVE JUROR: Good morning.

25 THE COURT: Nice and loud now. This is where I

1 struggle.

2 PROSPECTIVE JUROR: I work in a hospital. I live
3 in Harlem with my three children. I play basketball,
4 sports, and I read the newspaper.

5 THE COURT: Your highest degree?

6 PROSPECTIVE JUROR: 11th grade.

7 THE COURT: Do you read the paper everyday?

8 PROSPECTIVE JUROR: No, not everyday. I have two
9 jobs.

10 THE COURT: A couple of times a week?

11 PROSPECTIVE JUROR: Maybe a couple times a week,
12 yes.

13 THE COURT: Did you mention, are there any
14 organizations?

15 PROSPECTIVE JUROR: Eastern Star Organization.

16 THE COURT: Eastern Star?

17 PROSPECTIVE JUROR: Yeah.

18 THE COURT: All right, thank you, ma'am.

19 Ms. McCormick, good morning.

20 PROSPECTIVE JUROR: Oh.

21 THE COURT: Nice and loud, do you live alone or
22 with someone else?

23 PROSPECTIVE JUROR: I am married.

24 THE COURT: Any children?

25 PROSPECTIVE JUROR: No.

1 THE COURT: You told us your work. Was it
2 Columbia?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Say it again for the record?

5 PROSPECTIVE JUROR: Columbia University,
6 secretary. I read the newspaper. I don't know, once or two
7 twice a week. Actually, I almost read the newspaper
8 everyday the free one; and Wall Street Journal once a week;
9 and I do try to follow news on the Internet whenever I have
10 a moment. What else?

11 THE COURT: Free time.

12 PROSPECTIVE JUROR: Reading, exercising, checking
13 out new neighborhoods. Basically that's it.

14 THE COURT: Your highest degree is what?

15 PROSPECTIVE JUROR: Bachelors.

16 THE COURT: Did you mention which neighborhood you
17 live in now?

18 PROSPECTIVE JUROR: Inwood.

19 THE COURT: Inwood. You did tell us. Thank you,
20 ma'am. Ms. Lam, I know you have a very soft voice because
21 we spoke before so, so project. Give it all you got. Do
22 you live alone or with someone else?

23 PROSPECTIVE JUROR: I live with my husband.

24 THE COURT: Which neighborhood is that?

25 PROSPECTIVE JUROR: Midtown east.

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1 THE COURT: And what is your occupation?

2 PROSPECTIVE JUROR: I am a makeup artist.

3 THE COURT: Highest degree?

4 PROSPECTIVE JUROR: I have an Associates Degree in
5 Computer Science.

6 THE COURT: What do you like to do in your spare
7 time?

8 PROSPECTIVE JUROR: Watch movies. I am mostly
9 home.

10 THE COURT: Do you belong to any organizations?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Do you try to keep up with current
13 events?

14 PROSPECTIVE JUROR: Once a week.

15 THE COURT: A newspaper or TV?

16 PROSPECTIVE JUROR: On-line.

17 THE COURT: On-line. All right. Thank you,
18 Ms. Lam. Gallegos, do you live alone?

19 PROSPECTIVE JUROR: I live in the Bronx with my
20 wife and two kids.

21 THE COURT: Woo, woo, woo. In the Bronx?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Which part of the Bronx?

24 PROSPECTIVE JUROR: South Bronx.

25 THE COURT: Is it the part that's really in

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1 Manhattan?

2 PROSPECTIVE JUROR: No.

3 THE COURT: There is one little -- what's the
4 neighborhood?

5 PROSPECTIVE JUROR: I know it as the South Bronx.

6 THE COURT: How did you get here if I may ask?

7 PROSPECTIVE JUROR: I took the No. 2 train from my
8 home.

9 THE COURT: No, no. You are suppose to be called
10 for jury duty in the county where you reside. This is New
11 York County. The Bronx has its own court house and the
12 Bronx is a separate county.

13 PROSPECTIVE JUROR: Yeah.

14 THE COURT: Jury duty for you should be in the
15 Bronx, not in Manhattan.

16 PROSPECTIVE JUROR: Okay.

17 THE COURT: Did you use to live in Manhattan?

18 PROSPECTIVE JUROR: Yeah, I was separated those
19 days.

20 THE COURT: But you are a winner here because we
21 have to let you go. You cannot serve on this jury and live
22 in the Bronx, okay, and you tell the jury people that when
23 you go back to the room. I take it both sides agree?

24 MR. BOGDANOS: Yes, your Honor.

25 (Prospective Juror exited the courtroom.)

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1 THE COURT: Back to the wheel.

2 THE COURT CLERK: Meredith Sulser, S-U-L-S-E-R,
3 seat No. 14.

4 THE COURT: All right, so it's Ms. Sulser. The
5 floor is yours. Go ahead.

6 PROSPECTIVE JUROR: I live on the upper east side
7 alone. I work in a bank. Part of my job is reading the
8 news so I read the news daily. Hobbies, running traveling,
9 being with my family. No association.

10 THE COURT: Neighborhood? Did you give us that?

11 PROSPECTIVE JUROR: Bachelors of Arts, upper east
12 side.

13 THE COURT: Thank you, ma'am. Mr. Lee?

14 PROSPECTIVE JUROR: Good morning. I live with my
15 wife and my son in Tudor City. Have an engineering degree.
16 I have been retired almost five years. Currently not
17 working. Not currently active in any organization. In my
18 spare time, free time I travel; exercise.

19 THE COURT: What about current events? Do you
20 keep up?

21 PROSPECTIVE JUROR: I do not read the paper. I
22 get news on-line pretty daily.

23 THE COURT: On a regular basis?

24 PROSPECTIVE JUROR: Daily.

25 THE COURT: Thank you, Mr. Lee. Mr. Warheit?

1 PROSPECTIVE JUROR: Yes, I live in Harlem in the
2 Morningside area with one roommate. I am unemployed. I am
3 a free-lance cartoonist and illustrator and comedy writer.
4 Highest degree I ever learned was Bachelors in Neuroscience;
5 and for hobbies I sing in a band and I do improv stand-up
6 comedy and -- was there more? News, often times I have
7 New York 1 on as background noise.

8 THE COURT: And what about organizations?

9 PROSPECTIVE JUROR: Organizations, nothing that I
10 can think of.

11 THE COURT: Thank you Mr. Warheit. Mr. Lanzetta?

12 PROSPECTIVE JUROR: Married. Two children. Live
13 in Chelsea. Bachelor's Degree. Trade equities investment
14 banker. Read news all day long. No association. Free
15 time. I have kids so I have two kids. Spend time with my
16 children.

17 THE COURT: You are in a hurry?

18 PROSPECTIVE JUROR: No, not really.

19 THE COURT: It sounds like you are in a hurry
20 right now. Relax. You did cover it all. Ms. McIntosh?

21 PROSPECTIVE JUROR: So I live in Harlem with my
22 boyfriend and my 19 month old daughter; and I am a
23 psychologist. My highest degree earned a PhD. but I am ABD,
24 all but dissertation. I like to read. I like to cook, and
25 I don't belong to any organizations.

1 THE COURT: Current events, you keep up with
2 current events?

3 PROSPECTIVE JUROR: Yes, I do, I would say almost
4 daily but my daughter keeps me pretty busy. I have a New
5 York Times on-line subscription.

6 THE COURT: Thank you, ma'am. Now, ladies and
7 gentlemen, the next set of general questions now starting
8 with prior jury experience so again the question is have any
9 of you had occasion to serve on a criminal case in the past
10 or a civil case or possibly the grand jury? Any one of
11 those three. Ms. McCormick?

12 PROSPECTIVE JUROR: Grand jury.

13 THE COURT: When was that approximately?

14 PROSPECTIVE JUROR: 2002.

15 THE COURT: Did you hear all sorts of different
16 cases?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Thank you. No one else? Number two,
19 conflicts with the law, have you or anyone close to you ever
20 had a conflict with the law and by that we mean an arrest of
21 some sort? Ms. McIntosh?

22 PROSPECTIVE JUROR: Yes, my brother and sister
23 both have had some conflicts with the law.

24 THE COURT: Were those conflicts here in
25 Manhattan?

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1 PROSPECTIVE JUROR: Nope.

2 THE COURT: Somewhere out --

3 PROSPECTIVE JUROR: Upstate but in New York.

4 THE COURT: Did you attend any court proceedings?

5 PROSPECTIVE JUROR: I did.

6 THE COURT: Were there any trials involved?

7 PROSPECTIVE JUROR: No trial.

8 THE COURT: When was the last time that you went
9 to one of those proceedings approximately?

10 PROSPECTIVE JUROR: I think it was around 2009.

11 THE COURT: And is there anything about those
12 cases that would somehow make it hard for you to be fair in
13 this one?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Thank you, Mr. Lee?

16 PROSPECTIVE JUROR: By youngest sister was
17 murdered 17 years ago and unfortunately her eldest son was
18 the one that did it so I went through the whole court
19 proceeding.

20 THE COURT: Was that here in Manhattan?

21 PROSPECTIVE JUROR: No, that's in New Jersey.

22 THE COURT: New Jersey. So was there a trial?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Again is there anything about that
25 whole experience that would come into play in this case and

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1 make it hard for you to be fair?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Thank you. Mr. Rose?

4 PROSPECTIVE JUROR: I was convicted of a drug
5 charge in '93.

6 THE COURT: You were?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: Was there a trial?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Was the arrest here in Manhattan?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: It goes back away but do you think any
13 of that would affect you in terms of being fair?

14 PROSPECTIVE JUROR: No, not at all.

15 THE COURT: You could promise both sides including
16 the DA because that's the same office after all?

17 PROSPECTIVE JUROR: Sure.

18 THE COURT: You could promise him you could be
19 fair?

20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: Thank you. Anyone else with a
22 conflict?

23 Law enforcement, do any of you happen to know
24 anyone who works in law enforcement? Well, Mr. Hedges, you
25 know lots of people. Any family members?

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1 PROSPECTIVE JUROR: No.

2 THE COURT: I am sorry, Ms. Brown?

3 PROSPECTIVE JUROR: Like a Correction officer
4 would be law enforcement? My niece is a Correction officer.

5 THE COURT: Yes.

6 PROSPECTIVE JUROR: Right, my knees.

7 THE COURT: Where is she located?

8 PROSPECTIVE JUROR: Riker's.

9 THE COURT: Riker's. Thank you. Mr. Peters.

10 PROSPECTIVE JUROR: My step-father, two uncles and
11 cousin are all police officers.

12 THE COURT: In New York City?

13 PROSPECTIVE JUROR: No in Cleveland.

14 THE COURT: Cleveland. Very good. Anyone else?
15 Ms. McCormick?

16 PROSPECTIVE JUROR: I have two cousins that work
17 in Texas, second cousins actually, are police officers. I
18 have a good friend former coworker, who is a police officer,
19 but I haven't been in touch with him for quite awhile. I
20 think that's it.

21 THE COURT: Here in Manhattan or New York City?

22 PROSPECTIVE JUROR: I honestly don't know. I
23 haven't been in touch.

24 THE COURT: Thank you. One more victim of a
25 crime, have you or anyone close to you ever been the victim

1 of a crime? Mr. Weiner?

2 PROSPECTIVE JUROR: I have been mugged several
3 times and assaulted by a family member.

4 THE COURT: When was the last incident? How many
5 years ago?

6 PROSPECTIVE JUROR: Over twenty years ago.

7 THE COURT: We are going pretty far back. Did you
8 report most of these, or were these matters mostly reported
9 to your knowledge?

10 PROSPECTIVE JUROR: One or two were reported and
11 one or two were not reported.

12 THE COURT: Were there any arrests in these cases?
13 No?

14 PROSPECTIVE JUROR: I don't think so. I am not
15 sure.

16 THE COURT: You didn't have any further
17 involvement in terms of prosecution?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Did any of them occur in Manhattan?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Most?

22 PROSPECTIVE JUROR: Two in Manhattan and two in
23 the Bronx.

24 THE COURT: Thank you. Other crime victims in
25 this area, Ms. Brown?

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1 PROSPECTIVE JUROR: My brother.

2 THE COURT: Mother?

3 PROSPECTIVE JUROR: Brother was shot and left him
4 paralyzed by his girl friend.

5 THE COURT: When did that happen?

6 PROSPECTIVE JUROR: Maybe late '97.

7 THE COURT: Was there an arrest and a trial?

8 PROSPECTIVE JUROR: There was an arrest, yes.

9 THE COURT: Did you attend any of those
10 proceedings?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Is there anything about that case that
13 would come into play and make it difficult for you to be
14 fair?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Did that one occur in Manhattan too?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Thank you. Anyone else crime victim?
19 Mr. Peters?

20 PROSPECTIVE JUROR: In 2009 I was mugged in
21 Moscow.

22 THE COURT: That must have been unpleasant. Did
23 you report it to the local authorities?

24 PROSPECTIVE JUROR: I did not because one of them,
25 the muggers was posing as a police officer. I didn't know

1 if he was or not.

2 THE COURT: Thank you. Mr. McCormick?

3 PROSPECTIVE JUROR: My grandfather was mugged many
4 years ago and my cousin was stabbed entering the lobby of a
5 building.

6 THE COURT: Entering?

7 PROSPECTIVE JUROR: The lobby of a building.

8 THE COURT: And if you know, were any arrests made
9 in those cases?

10 PROSPECTIVE JUROR: I don't believe so.

11 THE COURT: All right. Thank you. No one else.

12 All right then, we will move along and once again I am going
13 to go over with you what I referred to earlier some of the
14 fundamental principles of criminal law. In this case,
15 ladies and gentlemen, as in every criminal case the accused
16 or the defendant -- here it's Mr. Richardson -- must be
17 presumed by you to be innocent.

18 He is here today because an indictment has been
19 filed against him but the indictment itself is not proof of
20 anything. An indictment is simply the means by which a
21 defendant is informed of the charges against him and is then
22 brought into court to face those charges; therefore, as he
23 sits there now, he must be afforded the presumption of
24 innocence.

25 It is up to the People, DA's Office to convince

1 you beyond a reasonable doubt that the defendant is guilty.
2 The burden in a criminal case is solely on the prosecution.
3 The defense has no burden to do anything. Is there anyone
4 who has any difficulty accepting and following these
5 fundamental principles?

6 All right, under our system a defendant in a
7 criminal case is not obligated to take the witness stand;
8 though, if Mr. Richardson does not testify you may not draw
9 any inference unfavorable to him from that fact. Is there
10 anyone who would have any difficulty accepting and following
11 this principle?

12 Does anyone have any moral, intellectual, or
13 religious opinion or belief which might conflict with any of
14 these rules or which might some how slant your approach to
15 the case? So moral or ethical concerns? No one.

16 Police testimony, will everyone be able to weigh
17 the testimony of a police officer in the same way that you
18 would weigh the testimony of a civilian witness? And again
19 that means that no greater or lesser weight is to be given
20 to the testimony simply because it is coming from a police
21 officer. Is there anyone who would be unable to follow such
22 instruction?

23 All right, making good -- rapid progress I should
24 say. If after hearing all the evidence in the case you are
25 convinced that the defendant's guilt has been proved beyond

1 a reasonable doubt, would you hesitate to vote guilty? All
2 right, and then the flip side if you find after hearing the
3 evidence that you do have a reasonable doubt, would you
4 hesitate to vote not guilty?

5 Finally anything -- is there anything else,
6 anything you would like to tell us about your qualifications
7 to serve on this case? All right, and I thank you all very
8 much. Once again that concludes my portion of the
9 questioning so the attorneys will now take over.
10 Mr. Bogdanos will go first.

11 MR. BOGDANOS: Thank you, your Honor. Ladies and
12 gentlemen, good morning and thank you again. Thank you so
13 much all of you for taking the time out of your lives to
14 make sure the system works. May I just with a show of hands
15 each and everyone of you was in the courtroom Thursday
16 during the first panel? Just a show of hands everyone.

17 A whole lot of people have soft voices like
18 Ms. Lam; but I don't have that problem. You probably
19 figured that out. Did everyone hear me during the first
20 panel where you were seated? Did anyone have any difficulty
21 at all? You are going to hear it is going to be much of the
22 same questions I had. It's the same case but presumably
23 that means we will be able to do it much faster.

24 Ms. Armstrong, ma'am, I think you were right in
25 this very seat. I asked the exact same question do you have

1 an opinion about crime in New York City, Criminal Justice
2 System, cops, lawyers, prosecutors, defense attorneys,
3 judges? Don't tell me the opinion. I don't think I could
4 take it but you have an opinion?

5 PROSPECTIVE JUROR: Yeah.

6 MR. BOGDANOS: Does everyone have an opinion?
7 Does anyone not have an opinion about crime in New York
8 City? Whatever that opinion is good, bad, indifferent
9 courts are too hard, courts are too easy, whatever that
10 opinion is do you promise to leave that opinion outside and
11 judge this case solely on the evidence?

12 PROSPECTIVE JUROR: Yes.

13 MR. BOGDANOS: Will you do the exact same thing,
14 sir?

15 PROSPECTIVE JUROR: Yes.

16 MR. BOGDANOS: Ma'am, would you do the exact same
17 thing?

18 PROSPECTIVE JUROR: Yeah.

19 MR. BOGDANOS: Not on the evidence, not what you
20 read in newspapers, not what you see in crime programs, not
21 what you see in the neighborhood, not what you see in the
22 hospital. Would you judge it purely what you see in this
23 case?

24 PROSPECTIVE JUROR: Yes.

25 MR. BOGDANOS: Mr. Hedges, because of your

1 connection with the New York City Police Department you will
2 put that aside, will you not, and judge this case fairly?

3 PROSPECTIVE JUROR: Yes.

4 MR. BOGDANOS: You will do that, won't you? You
5 won't allow your relationship good or bad with any other,
6 either fellow auxiliary police officers or New York City
7 police officers to affect your judgment here, will you?

8 PROSPECTIVE JUROR: No.

9 MR. BOGDANOS: Can we agree that police officers
10 like any other profession have good ones, not so good ones,
11 and bad ones; yes?

12 PROSPECTIVE JUROR: Yes.

13 MR. BOGDANOS: Like doctors, lawyers, accountants,
14 and all, you will put any personal relationships aside and
15 judge this case solely on what you hear from this witness
16 stand?

17 PROSPECTIVE JUROR: Yes.

18 MR. BOGDANOS: Detective, police officers testify
19 you will use all your powers of observation that you would
20 with any witness to assess their credibility, reliability,
21 and accuracy?

22 PROSPECTIVE JUROR: Yes.

23 MR. BOGDANOS: You wouldn't treat police officers
24 any differently?

25 PROSPECTIVE JUROR: No.

1 MR. BOGDANOS: Mr. Weiner, I believe. Am I saying
2 it right?

3 PROSPECTIVE JUROR: Yes.

4 MR. BOGDANOS: You are an attorney?

5 PROSPECTIVE JUROR: Yes.

6 MR. BOGDANOS: This may come as a shock to you.
7 During the course of my career I have prosecuted attorneys
8 for crimes. Not a shock, right?

9 PROSPECTIVE JUROR: No.

10 MR. BOGDANOS: Good attorneys, bad attorneys?

11 PROSPECTIVE JUROR: Yes.

12 MR. BOGDANOS: Right? Good accountants, bad
13 accountants?

14 PROSPECTIVE JUROR: (Nod head affirmatively up and
15 down.)

16 MR. BOGDANOS: I have told you, ma'am, that I have
17 prosecuted attorneys for committing crimes and attorneys who
18 were actually convicted of committing crimes; so you
19 understand that there are attorneys in the world who have --
20 who are criminals; right?

21 PROSPECTIVE JUROR: Right.

22 MR. BOGDANOS: Doesn't shock you?

23 PROSPECTIVE JUROR: No.

24 MR. BOGDANOS: Do you think it's fair to judge
25 Mr. Weiner based on some other attorney that I prosecuted

1 and convicted? You think it's fair to look at him and say,
2 oh, he is an attorney; he must, you know, be a criminal?
3 Forgive me. Do you think that's fair?

4 PROSPECTIVE JUROR: No. No.

5 MR. BOGDANOS: I had an investment banker someone.

6 THE COURT: Mr. Lanzetta.

7 MR. BOGDANOS: Mr. Lanzetta, I have prosecuted
8 investment bankers in my career? Shocker?

9 PROSPECTIVE JUROR: No.

10 MR. BOGDANOS: They were convicted so you conclude
11 good investor bankers, bad?

12 PROSPECTIVE JUROR: Yes.

13 MR. BOGDANOS: You think it is fair to judge
14 Mr. Lanzetta based on the action of other investment
15 bankers?

16 PROSPECTIVE JUROR: No, I don't.

17 MR. BOGDANOS: Judge Mr. Weiner based on what he
18 does; not other lawyers? Do all jurors promise to do that
19 in this case particularly when it comes to police officers?

20 PROSPECTIVE JUROR: Yes.

21 MR. BOGDANOS: Anyone thinks it's fair to read
22 page 14 of The Post and say, oh, this police officer did
23 this? Well, every police officer must be bad or dirty or
24 whatever. Anyone thinks that's fair? Anyone thinks that's
25 unfair? Show hands who thinks it's unfair. Got it.

1 Thank you. Mr. Schuster, another attorney you say
2 with a non-profit?

3 PROSPECTIVE JUROR: Yes.

4 MR. BOGDANOS: In East Harlem? What is the
5 chapter?

6 PROSPECTIVE JUROR: Youth Development Organization
7 that uses sports to build on teamwork.

8 MR. BOGDANOS: That's great. Thank you. Thank
9 you for your service.

10 You understand -- and I am picking on a lawyer --
11 but you do understand that whatever lawyers do in the
12 courtroom, that's not evidence, right? Is it?

13 PROSPECTIVE JUROR: I understand.

14 MR. BOGDANOS: And you understand that evidence is
15 the witness stand and any exhibits that his Honor or
16 evidence his Honor allows to come in. That's evidence,
17 right?

18 PROSPECTIVE JUROR: Yes.

19 MR. BOGDANOS: I need you to promise me --
20 Mr. Klein, is very good; very experienced. I need you to
21 promise me at no point when you are trying -- when you are
22 comparing --

23 MR. KLEIN: Judge, I think we have to approach for
24 a second about this.

25 THE COURT: Well, he will move on.

1 MR. KLEIN: Okay.

2 MR. BOGDANOS: Okay. You will limit yourself to
3 the evidence and not anything lawyers do?

4 PROSPECTIVE JUROR: Yes.

5 MR. BOGDANOS: Fair. Will everyone do just that?

6 PROSPECTIVE JUROR: Yes.

7 MR. BOGDANOS: I am looking at -- thank you,
8 ma'am.

9 Mr. Lee, were you able to hear when you were out
10 there when I was talking to the other jurors about the law
11 recognizes that sometimes crimes are committed by more than
12 one person. Could you hear that? I am not instructing you
13 on the law in any way. That's not my job. That's what his
14 Honor does, but do you understand why the law recognizes
15 that sometimes crimes are committed by one person; sometimes
16 by two; sometimes by three? For there is actually no limits
17 whatever the number is, right? You could accept that?

18 PROSPECTIVE JUROR: Sure.

19 MR. BOGDANOS: Can you accept the fact that if
20 there were -- let's pick a robbery -- four people involved
21 in a robbery and one has the gun, one is the lookout, one
22 drives the getaway car, and one cleans out the safe. Let's
23 say it is a restaurant robbery. Do you understand under the
24 law all four of them are guilty of robbery?

25 PROSPECTIVE JUROR: Yes.

1 MR. BOGDANOS: Does that offend you in any way the
2 getaway driver, the guy who is outside sharing in the intent
3 to commit the robbery but he never goes inside, he is just
4 as guilty under the law as the person holding the gun? Can
5 you accept that? If his Honor so instructs you, can you
6 accept that?

7 PROSPECTIVE JUROR: Yes.

8 MR. BOGDANOS: Ma'am, same question to you, can
9 you accept that law?

10 PROSPECTIVE JUROR: Yes.

11 MR. BOGDANOS: Does that offend you in anyway at
12 all?

13 PROSPECTIVE JUROR: No.

14 MR. BOGDANOS: Sir, does that bother you in any
15 way the law recognizes that more than one person can commit
16 a single crime?

17 PROSPECTIVE JUROR: No problem.

18 MR. BOGDANOS: Does anyone have any problem with
19 that concept commonly called acting in concert as his Honor
20 will instruct? Any one having any difficulty? Thank you.

21 Ms. Henry, you mentioned you work in a hospital
22 but if you said what you do in the hospital, I couldn't hear
23 so I apologize if I am making you repeat it. What do you
24 do?

25 PROSPECTIVE JUROR: Medicine technician.

1 MR. BOGDANOS: Ma'am, this is just going to be --
2 and let me move to Ms. McCormick. It is a yes or no answer.
3 Yes or no. Please no details. Have you ever done anything
4 bad in your life?

5 PROSPECTIVE JUROR: Yes.

6 MR. BOGDANOS: Did you ever tell anyone about it?

7 PROSPECTIVE JUROR: Yes.

8 MR. BOGDANOS: Anything unusual about that?

9 PROSPECTIVE JUROR: No.

10 MR. BOGDANOS: Why did you do that? Why did you
11 tell someone else about what you had done bad?

12 PROSPECTIVE JUROR: For kind of a release,
13 tension. Holding it inside.

14 MR. BOGDANOS: You think you are the only person
15 in the world who does that?

16 PROSPECTIVE JUROR: No, of course not.

17 MR. BOGDANOS: Mr. Peters, yes or no. Don't -- no
18 details. Did you ever do anything bad in your life?

19 PROSPECTIVE JUROR: Yes.

20 MR. BOGDANOS: Tell anyone about it?

21 PROSPECTIVE JUROR: Of course.

22 MR. BOGDANOS: Anything surprising about that?

23 That you would actually tell someone about something bad you
24 did?

25 PROSPECTIVE JUROR: (Nod head negatively back and

1 forth.)

2 MR. BOGDANOS: So if you were to hear in this
3 courtroom that in this case the defendant -- allegations
4 only -- defendant confessed to some of his participation in
5 this crime, you will keep an open mind, will you not?

6 PROSPECTIVE JUROR: Yes.

7 MR. BOGDANOS: You won't say, well, that's crazy.
8 No one's ever going to confess to a crime, right? You won't
9 do that? Will anyone do that? Does anyone think that's not
10 possible? Can everyone accept that and could I get nodding
11 of the heads?

12 PROSPECTIVE JUROR NO.12: Excuse me, could you
13 repeat that please.

14 MR. BOGDANOS: Sure. Do you think that's
15 impossible that an individual who has committed a crime will
16 confess to having committed that crime?

17 PROSPECTIVE JUROR: No.

18 MR. BOGDANOS: I probably made that sentence too
19 long. You have no problem with that at all?

20 PROSPECTIVE JUROR: No.

21 MR. BOGDANOS: You understand the concept and you
22 understand the reality of it? Forget about it. It is nice
23 in theory. You work in Columbia. My Alma Mater. It works
24 in practice, right? In real life? People really do commit
25 crimes and confess. Nothing surprising to you about that?

1 PROSPECTIVE JUROR: No.

2 MR. BOGDANOS: Ms. Sulser, yes, same question,
3 ever do anything bad?

4 PROSPECTIVE JUROR: (Nod head affirmatively up and
5 down.)

6 MR. BOGDANOS: No details. Did you tell anyone?

7 PROSPECTIVE JUROR: (Nod head affirmatively up and
8 down.)

9 MR. BOGDANOS: Now, you only did one bad thing in
10 your life or more than one?

11 PROSPECTIVE JUROR: I am sure a few.

12 MR. BOGDANOS: Tell people more than once?

13 PROSPECTIVE JUROR: Yeah.

14 MR. BOGDANOS: Did you ever have an occasion you
15 ever said, told someone what you did but maybe you put a
16 little bit of a spin on it; maybe you minimized what you
17 did, your involvement maybe? You didn't tell everything?
18 Did you ever do that?

19 PROSPECTIVE JUROR: (Nod head affirmatively up and
20 down.)

21 MR. BOGDANOS: Why?

22 PROSPECTIVE JUROR: Because you feel better and
23 get it out there.

24 MR. BOGDANOS: Would it surprise you if anyone
25 else did such a thing; that is, not told what they did but

1 then minimized it or altered or shaped or -- I don't know --
2 common parlance, put a spine on it?

3 PROSPECTIVE JUROR: (Nod head affirmatively up and
4 down.)

5 MR. BOGDANOS: I think the example I used last
6 Thursday four people do a robbery and all four confess.
7 Sometimes all four say they were the getaway driver.
8 Nothing about that surprises you?

9 PROSPECTIVE JUROR: No.

10 MR. BOGDANOS: You could accept that and if that's
11 the kind of --

12 PROSPECTIVE JUROR: (Nod head affirmatively up and
13 down.)

14 MR. BOGDANOS: What you hear in this courtroom,
15 you will use your common sense and your knowledge of the
16 world to assess what it is you hear?

17 PROSPECTIVE JUROR: (Nod head affirmatively up and
18 down.)

19 MR. BOGDANOS: In that regard will everyone do
20 just that? Sir, I will ask you. Will you use your common
21 sense and knowledge of the world and your fairness and
22 impartiality in assessing such evidence? Yes? I am sorry,
23 Ms. Messina has to get your answer?

24 THE COURT: Out loud.

25 MR. BOGDANOS: Could you do that?

1 THE COURT: As opposed to nodding, say the word.

2 PROSPECTIVE JUROR: I know what we are talking
3 about, yes.

4 MR. BOGDANOS: Thank you. I know you are nodding
5 for us and we all see that but just the record has to
6 indicate what you are saying.

7 Mr. Lanzetta, do you ever walk by Macy's window?

8 PROSPECTIVE JUROR: Sure.

9 MR. BOGDANOS: Do you ever see a crime actually
10 being committed in Macy's window while you are walking by?

11 PROSPECTIVE JUROR: Right.

12 MR. BOGDANOS: Do you get the point that the idea
13 behind crime is to try to commit it with not witness -- with
14 witnesses who are not -- I am not saying this as well at
15 all.

16 PROSPECTIVE JUROR: I understand.

17 MR. BOGDANOS: I have to say it for the record.
18 That the idea is to commit it without witnesses if possible?

19 PROSPECTIVE JUROR: Right.

20 MR. BOGDANOS: You get that? Anyone shocked at
21 that concept? Anyone shocked at the concept sometimes
22 crimes are committed without any witnesses at all?

23 If your Honor instructs you, could you accept the
24 proposition, legal proposition that there is no requirement
25 under the law for there to be an actual person who witnesses

1 a crime in order for you to find the defendant guilty? Can
2 you accept that?

3 PROSPECTIVE JUROR No. 1: Yes.

4 MR. BOGDANOS: You still have -- it still has to
5 be proven beyond a reasonable doubt by admissible evidence,
6 right? We can agree on that?

7 PROSPECTIVE JUROR: Yes.

8 MR. BOGDANOS: We can certainly agree on that, you
9 got to hold the People to their burden of proof; but is
10 anyone sitting here now -- and I am going to do this more
11 directly start going back to you, as you are sitting here
12 now saying, well, I have to have a person who saw the crime.
13 I don't care how much other stuff you have, Mr. DA. I need
14 a real person who is going to say, wait, I saw him do what
15 you are claiming he did. Are you going to require that?

16 PROSPECTIVE JUROR: No.

17 MR. BOGDANOS: Are you --

18 PROSPECTIVE JUROR: No.

19 MR. BOGDANOS: Are you going to require that, sir?

20 PROSPECTIVE JUROR: No.

21 MR. BOGDANOS: Can you accept whatever the other
22 evidence is, whether it's DNA, whether it's fingerprints,
23 whatever it is -- I am not going to go through the evidence.
24 Jury selection is not the right place for you, but I am
25 telling you now you are not going to hear from a live

1 witness who actually saw -- is going to say they saw the
2 defendant do any of these actions he is charged with. Can
3 you accept that?

4 PROSPECTIVE JUROR: Yes.

5 MR. BOGDANOS: Sir, can you accept that same
6 thing?

7 PROSPECTIVE JUROR: Yes.

8 MR. BOGDANOS: Do you have any problem with that
9 at all?

10 PROSPECTIVE JUROR: No problem.

11 MR. BOGDANOS: Anything at all?

12 PROSPECTIVE JUROR: No.

13 MR. BOGDANOS: Mr. Warheit?

14 PROSPECTIVE JUROR: Yes.

15 MR. BOGDANOS: Do you accept that and, in fact,
16 the defendant, the person who commits the crime -- not this
17 one, I am talking in general terms -- a defendant who
18 chooses when and where to commit the crime, right? You
19 understand that?

20 PROSPECTIVE JUROR: Right.

21 MR. BOGDANOS: So if I want to commit crime in an
22 elevator, that's my choice to commit the crime in the
23 elevator? Yes?

24 PROSPECTIVE JUROR: Yes.

25 MR. BOGDANOS: You can accept then if that's the

1 case that it necessarily follows that it's the -- the
2 defendant -- again I am talking in general terms -- who
3 chooses whether or not there are witnesses to a crime;
4 right?

5 PROSPECTIVE JUROR: Okay, yeah.

6 MR. BOGDANOS: You accept that?

7 PROSPECTIVE JUROR: Ah-huh.

8 MR. BOGDANOS: So the same question you are not
9 going to hold -- you are not going to say, okay, Mr. DA you
10 better put a witness on that stand. You are not going to do
11 that because the law doesn't require an actual live
12 eyewitness. You accept that?

13 PROSPECTIVE JUROR: Yes.

14 MR. BOGDANOS: I know you got this in law school
15 but I am going to ask you now.

16 PROSPECTIVE JUROR: I am sorry. I am distracted
17 by --

18 MR. BOGDANOS: The phone. Why don't we wait to
19 get that off.

20 (Pause in the proceedings.)

21 MR. BOGDANOS: Sorry, Mr. Rose.

22 PROSPECTIVE JUROR: Very sorry.

23 THE COURT: It is all too common occurrence these
24 days. It's off.

25 MR. BOGDANOS: Thank you very much. I was trying

1 to pretend it wasn't happening. I didn't want to embarrass
2 him -- can you accept -- I know you got this in law school;
3 no requirement of an actual live witness but could you
4 accept in reality and in practice this is not just in
5 theory?

6 PROSPECTIVE JUROR: Yes.

7 MR. BOGDANOS: Does anyone have any difficulty at
8 all?

9 PROSPECTIVE JUROR: No.

10 MR. BOGDANOS: Do you, sir?

11 PROSPECTIVE JUROR: No.

12 MR. BOGDANOS: Ma'am?

13 PROSPECTIVE JUROR: No.

14 MR. BOGDANOS: Thank you.

15 Ms. McIntosh, psychologist on your way to Ph.D.

16 all you need is a dissertation. You are writing your
17 dissertation with a nineteen month old. Good luck with
18 that. Do you understand that of the many questions that the
19 People are required to prove in order for you to find the
20 defendant guilty of murder, People have to prove a whole
21 series of things and his Honor will instruct you. I am not
22 allowed to. Go through the list of elements. Have to prove
23 this. Have to prove that. His Honor will instruct you at
24 the appropriate time and of all those things -- it is a long
25 list -- of all those things no where on there is why, why

1 did the defendant rob 69 year old Helen Abbott; why did he
2 and others stab her; why did he and others strangle her to
3 death.

4 I am telling you now if you are seated as a juror
5 in this case you may never hear the answer to that question,
6 the question of why did he do it. Can you accept that?

7 PROSPECTIVE JUROR: I can accept it.

8 MR. BOGDANOS: Can you still -- can you agree it's
9 something you would like to know?

10 PROSPECTIVE JUROR: Yeah, I would like to know.

11 MR. BOGDANOS: Interesting piece of information?

12 PROSPECTIVE JUROR: Not necessarily, yeah.

13 MR. BOGDANOS: Thank you. But not necessary and
14 you won't -- you will be able to assess the evidence; and if
15 someone in the back in the deliberation room says I've got
16 to know why he did -- come on, why did he do this, will you
17 stop and say that's nice but this isn't the appropriate
18 forum for why. Will you do that?

19 PROSPECTIVE JUROR: (Nod head affirmatively up and
20 down.)

21 MR. BOGDANOS: Does anyone have any difficulty
22 whatsoever with the fact you may never hear why this was
23 done? Why he did it; why he and the others did it; just
24 that it was done? Does anyone have a problem at all?

25 Ms. Lam, I think you said you have an associate

1 degree in computer science. Science is what? Science
2 is lots of zeros and one's and its exact and it's precise
3 and formula in, formula out? There is a real beauty and a
4 symmetry to the science, right? We agree with that?

5 Can you accept the fact that murder isn't like
6 that? You may never find out all of the facts in this case.
7 Can you accept that proposition going in? I am telling you
8 right now if you are a juror on this case, I am never going
9 to stand up and in front of you and tell you which stab
10 wounds came first. The one in the jugular; the one in the
11 aorta; the one in the lungs; whether the seven fractured
12 ribs happened before or after she was stabbed twenty-two
13 (22) times. Never going to tell you that.

14 But can you still listen to the evidence and even
15 if you don't get that kind of precision, will you still be
16 able to fairly and impartially judge the evidence in order
17 to determine whether the People had proven that that man
18 Mark Richardson murdered Helen Abbott? Will you do that?

19 PROSPECTIVE JUROR: Yes.

20 MR. BOGDANOS: Even if there are unanswered
21 questions? Yes?

22 PROSPECTIVE JUROR: (Nod head affirmatively up and
23 down.)

24 MR. BOGDANOS: Provided that the evidence still
25 convinces you beyond a reasonable doubt as his Honor has

1 instructed you; you will do that?

2 PROSPECTIVE JUROR: (Nod head affirmatively up and
3 down.)

4 MR. BOGDANOS: Mr. Guzman, you will do that as
5 well?

6 PROSPECTIVE JUROR: (Nod head affirmatively up and
7 down.)

8 MR. BOGDANOS: Judge it fairly and impartially?
9 Yes?

10 PROSPECTIVE JUROR: Yes.

11 MR. BOGDANOS: Mr. Guzman, really important. You
12 said you are a baseball fan. Mets or Yankees? I am sorry,
13 I want the answer. Which one?

14 PROSPECTIVE JUROR: Mets.

15 MR. BOGDANOS: Bad answer. Where is my history
16 novice? Same set of questions I did with Ms. Lam. History
17 novel, historical fiction?

18 PROSPECTIVE JUROR: Actually primarily historical
19 fact biography.

20 MR. BOGDANOS: More John Kegan (phonetic) than
21 like Steven Presfield (phonetic)?

22 PROSPECTIVE JUROR: (Nod head affirmatively up and
23 down.)

24 MR. BOGDANOS: You recognize this is an easily
25 answered -- you recognize that in historical nonfiction, you

1 don't get to fill in the blanks, right?

2 PROSPECTIVE JUROR: Correct.

3 MR. BOGDANOS: But you do get to use your common
4 sense and your knowledge of the world to reach reasonable
5 conclusions based on the facts at hand, right?

6 PROSPECTIVE JUROR: (Nod head affirmatively up and
7 down.)

8 MR. BOGDANOS: That's exactly what you will do if
9 you are chosen as a juror in this case?

10 PROSPECTIVE JUROR: Yes.

11 MR. BOGDANOS: Will everyone do just that? Show
12 of hands please if I could. Thank you.

13 Finally there is someone here who doesn't have a
14 TV. Was that Ms. Armstrong? And you don't either? It's
15 fine. I don't have cable; but I get that there are -- there
16 is a proliferation of crime dramas, CSI, Law & Order. I
17 like them. I do the -- when I get to watch them I do but is
18 anyone here going to hold me to that standard? Tell me now
19 cause it ain't happening.

20 Are you going to hold me to the standard that you
21 see on television? Whether it's CSI, where you know, quick
22 get that fingerprint and lift it and tell me where that
23 finger print came from and how long it's been there and put
24 it up on the plasma screen and wait a second.

25 There is a little spec of dirt that can only come

1 from one preserve in Kenya; and if you are expecting that to
2 happen in this case because, man, are you going to be
3 disappointed if that's what you think we can do. Are you
4 going to accept that?

5 PROSPECTIVE JUROR: (Nod head affirmatively up and
6 down.)

7 MR. BOGDANOS: Now, it is the same thing before --
8 I am sorry, I know you are shaking your head, no, but could
9 you say it out loud for the record.

10 THE COURT: Actually the answer to that question
11 was yes.

12 MR. BOGDANOS: Real loud.

13 THE COURT: State it out loud.

14 MR. BOGDANOS: Thank you, Judge. You are not
15 going to hold me to that standard at all; right? Anyone
16 going to do that? You have to tell me now please.

17 Anyone going to expect DNA in 45 minutes or you
18 know any kind of fiber analysis in the trunk of a car that
19 will trace back to the sneaker of Mr. Richardson? Is anyone
20 going to hold me to that standard? You are going to hold me
21 to the real world standard? Yes, sir?

22 PROSPECTIVE JUROR: No.

23 MR. BOGDANOS: So ultimately the question is
24 really simple. Before you hold me to the burden of proof
25 beyond a reasonable doubt will each of you do that and if,

1 in fact, the People cannot prove beyond a reasonable doubt
2 that the defendant committed this murder, robbery; sex abuse
3 and murder with others, then you will find him not guilty,
4 right? We are all in agreement, yes?

5 PROSPECTIVE JUROR: Yes.

6 MR. BOGDANOS: But if the People prove that this
7 man here Mark Richardson acting with others robbed and
8 murdered Helen Abbott or during the course of the robbery
9 Helen Abbott was murdered, what would your verdict be?

10 PROSPECTIVE JUROR: If proved beyond a reasonable
11 doubt, my verdict will be guilty.

12 MR. BOGDANOS: Your verdict?

13 PROSPECTIVE JUROR: Guilty.

14 MR. BOGDANOS: Your verdict if it's proven beyond
15 a reasonable doubt?

16 PROSPECTIVE JUROR: Guilty.

17 MR. BOGDANOS: Your verdict?

18 PROSPECTIVE JUROR: Yes.

19 MR. BOGDANOS: It is hard to hear.

20 PROSPECTIVE JUROR: Guilty.

21 MR. BOGDANOS: Your verdict if it is proven beyond
22 a reasonable doubt?

23 PROSPECTIVE JUROR: Guilty.

24 MR. BOGDANOS: Your verdict?

25 PROSPECTIVE JUROR: Guilty.

1 MR. BOGDANOS: It is hard to hear?

2 PROSPECTIVE JUROR: Guilty.

3 MR. BOGDANOS: Your verdict?

4 PROSPECTIVE JUROR: Yeah.

5 MR. BOGDANOS: Ma'am, your verdict if it is proven
6 beyond a reasonable doubt that this man -- the one in court
7 before you today -- committed a robbery of Ms. Abbott;
8 during the course of the robbery, she was murdered, what
9 will your verdict be?

10 PROSPECTIVE JUROR: Guilty.

11 MR. BOGDANOS: Your verdict?

12 PROSPECTIVE JUROR: Guilty.

13 MR. BOGDANOS: Your verdict?

14 PROSPECTIVE JUROR: Guilty.

15 MR. BOGDANOS: Your verdict?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Your verdict?

18 PROSPECTIVE JUROR: Yes.

19 MR. BOGDANOS: If we prove it beyond a reasonable
20 doubt and only then, what will it be.

21 PROSPECTIVE JUROR: Guilty.

22 MR. BOGDANOS: What would your verdict be?

23 PROSPECTIVE JUROR: Guilty.

24 MR. BOGDANOS: Even if we don't produce a live
25 witness but prove it with other evidence beyond a reasonable

1 doubt, what would your verdict be?

2 PROSPECTIVE JUROR: Guilty.

3 MR. BOGDANOS: And you, ma'am?

4 PROSPECTIVE JUROR: Guilty.

5 MR. BOGDANOS: Thank you, ladies and gentlemen.

6 THE COURT: Mr. Klein, you have ten minutes or so.
7 We have to break early. Then you can finish in the
8 afternoon.

9 MR. KLEIN: That's fine.

10 Good afternoon. Mr. Hedges, I don't know if you
11 heard one of the things Mr. Bogdanos said. He was talking
12 about the role of attorneys in the courtroom. He said one
13 of the things you are going to hear or you might find is
14 that me, Mr. Klein, that I was a very experienced attorney.
15 You heard him say that?

16 PROSPECTIVE JUROR NO.2: Yes.

17 MR. KLEIN: Well, obviously, you will decide on
18 your own if you think I am experienced or not; but you know
19 this is a murder prosecution, right?

20 PROSPECTIVE JUROR: Yes.

21 MR. KLEIN: This is a prosecution for the most
22 serious crime that we have in New York State, okay. This is
23 a prosecution where someone is accused of taking a life of
24 another human being, right; so obviously these crimes are
25 taken the most seriously in courtrooms in New York. It

1 doesn't surprise you, right?

2 PROSPECTIVE JUROR: No.

3 MR. KLEIN: It doesn't surprise you then that
4 obviously these crimes are prosecuted with great
5 seriousness, right?

6 PROSPECTIVE JUROR: Nod head affirmatively up and
7 down.)

8 MR. KLEIN: That these crimes in seriousness of
9 the prosecution of experienced people are assigned to deal
10 with them? That wouldn't surprise you; right?

11 PROSPECTIVE JUROR: (Nod head affirmatively up and
12 down.)

13 MR. KLEIN: Obviously, when some one else's life
14 is taken and someone is accused of a crime, a very
15 experienced prosecutor will be assigned to the case; right?

16 PROSPECTIVE JUROR: Right.

17 MR. KLEIN: That wouldn't surprise you? It
18 wouldn't surprise you that very experienced police
19 investigators, homicide investigators with years of
20 experience that they would also be assigned to the case;
21 right?

22 PROSPECTIVE JUROR: (Nod head affirmatively up and
23 down.)

24 MR. KLEIN: And I assume then it wouldn't surprise
25 you in any way to hear that also an experienced defense

1 lawyer was assigned to Mr. Richardson, okay? Doesn't
2 surprise you? It's what you would expect, yes?

3 PROSPECTIVE JUROR: (Nod head affirmatively up and
4 down.)

5 MR. KLEIN: And, Mr. Peters, same true for you.
6 You assume that when the charge is something like murder, it
7 is not shoplifting, maybe a first year lawyer could handle?
8 That most experienced people come in and present the cases
9 to you, all right; and, Mr. Weiner, you are an attorney
10 yourself?

11 PROSPECTIVE JUROR: Yes.

12 MR. KLEIN: You know some issues can be dealt with
13 first year associates I assume you worked with and as issues
14 get more complicated, more intricate, then more experienced
15 attorneys deal with them, yes?

16 PROSPECTIVE JUROR: Yes.

17 MR. KLEIN: And you all accept -- and,
18 Ms. McCormick, let me ask you. One of the reasons why
19 experienced people are assigned to cases of this nature you
20 want to make sure that no stones are left unturned, right?

21 PROSPECTIVE JUROR: (Nod head affirmatively up and
22 down.)

23 MR. KLEIN: And one of the reasons why experienced
24 people are assigned like to someone accused of a crime,
25 accused of murder, is because the system wants to make sure

1 that that person's only convicted of the crime if in fact he
2 really did it and the attorney is experienced because they
3 want to make sure his rights are uphold. We don't spout
4 about it in a courtroom but we really apply it.

5 PROSPECTIVE JUROR: Right.

6 MR. KLEIN: And he has someone despite how
7 terrible it sounds, despite the fact you are going to hear
8 all this evidence, oh, it must have been him, he must have
9 did it. To make sure there is someone on his side and to
10 make sure that the case is really proven against him before
11 we condemn him for anything; so can you assure me and more,
12 assure Mr. Richardson that you won't like hold it against
13 him? Decide -- and I don't know what you will decide. You
14 may decide I am a bum. I don't know. You will decide that;
15 but at the end of the case you say Mr. Richardson, he seemed
16 like a pretty competent attorney, an attorney who knew how
17 to ask a question, knew how to cross-examine a witness, who
18 knew how to keep his mouth shut, whatever you feel about me,
19 you won't hold it against him in any way because he has me
20 as his lawyer, right?

21 And you won't make any kind of assumption you
22 know? People, you know, they hate lawyers and I don't
23 know -- some people really hate criminal defense lawyers
24 because they think criminal defense lawyers what they do is,
25 they just get up there and they try to pull the wool over

1 everyone's eyes; they know their guy did it; they are trying
2 to be smart, click, and that if you think that about it,
3 that's fine; but if at the end of the case you say, okay,
4 now, the lawyer was just doing his job and you are not
5 convinced of the facts here, that's a not guilty. You don't
6 hesitate to acquit him, right? You won't say now this is
7 just this experienced lawyer knew how to get him off or
8 something like that?

9 Okay. You understand Ms. Sulser I have no job
10 here. I haven't been assigned here to pull the wool over
11 anyone's eyes about anything, okay. I have just been
12 assigned to make sure that this individual, Mr. Richardson,
13 gets a fair trial, okay; and if it's proven that he is
14 guilty so be it. Can't do anything about it. But there is
15 a lot at stake here obviously for everybody and a lot of
16 complicated issues to deal with and there may be a lot of
17 emotion in the case.

18 Someone may want to say to themselves someone got
19 to pay for this. That guy's got to pay because he is in
20 that seat. Part of my job is let's concentrate what's
21 really proven here and not proven, and then you will make
22 your decision.

23 All right, does anyone have a problem at all?
24 Mr. Warheit, Mr. Lanzetta, Ms. McIntosh that, that's the way
25 the system works? We assign people, defense lawyers, and I

1 have been assigned to represent him and I am going to do my
2 job. You wouldn't expect anything else, Mr. Warheit?

3 PROSPECTIVE JUROR: No.

4 MR. BOGDANOS: Mr. Lanzetta, would you hold it
5 against him that I represent him?

6 PROSPECTIVE JUROR: No.

7 MR. BOGDANOS: Ms. McIntosh, that's okay with you
8 also?

9 PROSPECTIVE JUROR: I won't hold it.

10 MR. KLEIN: If at the end of the case they say it
11 is proven; if at the end of the case, I don't know; Judge
12 gives me instructions; I have to make sure it is proven
13 beyond a reasonable doubt; but if it's not, I don't want to
14 condemn the wrong guy for something he may have done because
15 then you will just acquit him, right? Fair enough.

16 Ms. Brown, I don't know. I am sure you paid
17 attention what I was talking about last time. One of the
18 things I talked about I guess Thursday awhile ago I said a
19 little bit about what we understand the facts of the case
20 are going to be about, you know, really horrific murder.

21 Obviously, that has been made clear to you. A
22 woman who is found largely unclothed, she has been stabbed.
23 She has been strangled. She has been beaten perhaps and
24 left dead and then a daughter who comes in and finds her;
25 and you know like I said to the jury last week, obviously

1 when you hear that and I heard someone groan -- maybe that
2 was you -- and we all groan when we hear it. We are human
3 beings. When we hear that, it makes you groan in some way
4 if you are in the courtroom; and obviously it makes you
5 feel, you know, if someone can do that, you know they are
6 going to be held accountable, right.

7 They should be held accountable, right, but we --
8 can't -- every one of the things we do in the courtroom, we
9 make sure that the wrong people or persons are not held
10 accountable, okay. That's also one of your jobs if you are
11 on this jury. All right, yes?

12 PROSPECTIVE JUROR: Right.

13 MR. KLEIN: So if you are here and you say after
14 hearing the evidence you say to yourself this is really bad;
15 someone has to pay; some group of people have to pay,
16 someone did this; but you are in the jury room and you say
17 you know, but I don't know that this was really proven. I
18 don't know if it was really proven to me he was one of them.

19 Can you promise me and more importantly can you
20 promise Mr. Richardson that if you just feel in the pit of
21 your stomach how awful this crime is, you will never use
22 that as proof of anything against him?

23 PROSPECTIVE JUROR: Okay.

24 MR. KLEIN: Promise me that?

25 PROSPECTIVE JUROR: Yes.

1 MR. KLEIN: Mr. Ling, the same question to you.
2 Even if you know you are going to hear -- and you are going
3 to hear medical examiners, who are going to come in and talk
4 about this death; you are going to hear crime scene
5 officers, who are going to come in and describe what they
6 found there, right? You are going to hear the daughter who
7 does that. You are going to see pictures. Can you promise
8 me at the end of the case -- look, this was a really
9 terrible, terrible scene. This was one of the worse crimes
10 you will ever hear about in your whole life because it's
11 going to be played out in front of you.

12 At the end of the case -- look, I understand he is
13 being accused of them but you know it's not proven to me.
14 You won't use your disgust, your horror in the pit of your
15 stomach in anyway that we've got to find him guilty? You
16 won't do that, right?

17 PROSPECTIVE JUROR: Yep.

18 MR. KLEIN: One of the things about a horrendous
19 crime is you want to make sure that the right people are
20 held accountable, right, and the wrong person is never
21 convicted for such a horrendous crime if they didn't do it,
22 right?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Mr. Klein.

25 MR. KLEIN: I understand, Judge.

1 THE COURT: Sorry to interrupt but we do have one
2 more case from the calendar that we want to take care of
3 before lunch so we are going to break now. I ask everyone
4 to come back at 2:15. We will continue the questioning at
5 that time. Please do not discuss the case with anyone
6 between now and then. Thank you very much.

7 (Prospective jurors exited the courtroom.)

8 THE COURT OFFICER: The rest of you jurors are to
9 come back at 2:15.

10 (Court officer conferred with the Court off the
11 record.)

12 MR. KLEIN: Are we waiting for someone to come in?

13 THE COURT: He is just waiting. There is a juror
14 here who has an issue. All right, we have the three
15 defendants.

16 MR. KLEIN: What time did you say?

17 THE COURT: 2:15 approximately.

18 (Luncheon recess.)

19 A F T E R N O O N S E S S I O N

20 THE COURT: Both sides ready?

21 MR. KLEIN: Yes, Judge. There is something I
22 would like to bring to the Court's attention. As the Court
23 knows I objected by asking to approach on a comment made by
24 the district attorney about my experience; and I did it in
25 the context of also comments being made last time at the

1 voir dire of the district attorney had gone on.

2 Last time there were more extensive comments made
3 by the district attorney about how the defense lawyer,
4 Mr. Klein, could be -- is very good, very experienced, very
5 articulate. I don't know if the word clever was used, a
6 comment like that; and the reason I approached is, I think
7 especially the First Department frowns on this kind of
8 comment.

9 I actually tried a case in 1992 in front of Judge
10 Levitan, People v. Randall Jones, and among the problems the
11 First Department found that the case was a summation
12 argument; again the attorney was to argue that defense
13 counsel was a very good lawyer. That case, they went on to
14 state with discrepancies out of proposition and asked the
15 jury not to be fooled; and I just think that we have to be
16 very careful with the jury not saying that what defense
17 counsel does if he appears to be experienced is in anyway to
18 pull the wool over people's eyes and that's why I objected
19 over the comment.

20 It obviously puts the defense counsel in a
21 difficult posture, of course, because Mr. Bogdanos says,
22 "And my opponent is a very good lawyer." It is very awkward
23 to get up and say I object and everyone could say you don't
24 think you are a good lawyer; but kind of what the First
25 Department said, I believe what the law is, those kinds of

1 | comments are frowned upon because of the danger that it
2 | holds for the exercise of the 6th Amendment right of
3 | counsel, and I ask it not to occur in this case.

4 | MR. BOGDANOS: Actually what Mr. Klein has done is
5 | taken something I did, turned it into something I didn't do.
6 | Find a case on point with something I didn't do and then
7 | complain. First, I never in any way, shape, or form
8 | indicated in the slightest manner that Mr. Klein is
9 | attempting to fool the jury at all. What I simply -- if the
10 | Court recalls the context within which I made the comments
11 | Thursday entirely appropriate; like appropriately I submit
12 | is that just because an attorney -- either side engages in
13 | behavior whether it's repetitive questioning or whether it's
14 | altering the question, whether it's raising a voice -- any
15 | of those things, I asked for an assurance from the jurors
16 | that, that was not -- they understood that was not evidence
17 | to both sides.

18 | It is exactly what I said. I stand by the record.
19 | It is what I started doing today. Your Honor suggested I
20 | move on. I moved on but at no point did I ever indicate
21 | that Mr. Klein was doing anything inappropriate indeed. We
22 | could count the number of times when I suggested Mr. Klein
23 | was actually behaving appropriately in front of the jury and
24 | my respect for Mr. Klein in front of the jury; so putting
25 | that aside, that isn't what I did, but consider the second

1 half of the argument.

2 Mr. Klein got up and spent at least ten minutes
3 talking about how experience is appropriate in a homicide
4 case. In other words, echoing my very theme that experience
5 in this case is not unusual; but it is also not evidence,
6 not evidence that the jury can use and that's all I did.
7 That's all I will continue to do.

8 I don't happen -- I am not planning on saying
9 anything like that at all in any other rounds; but if
10 Mr. Klein is trying by this to chill my opportunity on
11 summation to say just because the defense says something
12 doesn't make it; so well then I have every intention of
13 doing that on summation. I have every intention of saying
14 what we do in this well is not evidence. That's evidence up
15 on the witness stand and all the voice in the world or the
16 repetition of the world or the sarcasm in the world if it
17 plays out in this courtroom is not evidence.

18 That is the entire and exclusive use of what I
19 intend to do with regard to that so, your Honor, on this
20 issue I completely disagree with Mr. Klein.

21 THE COURT: Thank you both. I eagerly await the
22 summations from both sides. May we have the jury, please.

23 (Prospective jurors entered the courtroom.)

24 THE COURT CLERK: Case on trial --

25 THE COURT: We are missing Mr. Rose.

1 (Court Officer exited the courtroom.)

2 THE COURT CLERK: Case on trial continued. People
3 of the State of New York versus Mark Richardson.
4 Appearances, please.

5 MR. BOGDANOS: Matthew Bogdanos for the People.
6 Good afternoon, your Honor, and jurors.

7 THE COURT: If you like.

8 MR. KLEIN: Thomas Klein for the defendant.

9 THE COURT: All right, good afternoon, everyone.
10 Mr. Klein will now continue without Mr. Rose, when he indeed
11 shows up, will continue.

12 MR. KLEIN: Ms. Sulser, one of the things that the
13 district attorney spoke about earlier I believe was how when
14 you come into a courtroom even though everyone has opinions
15 about the Criminal Justice System, you have to leave your
16 opinions outside; right? And we all agree that, that we
17 could do that, though maybe it would be more accurate to say
18 we all agree we will try to do it, right?

19 Cause I assume you go into a restaurant at some
20 point and there was a cloak room and, you know, leave your
21 jacket there at the cloak room and you don't bring your
22 cloak, that's an object you could take off and not have with
23 you; but your opinions even if there is a cloak room for
24 opinions and the way you think, the way you view the world
25 that is harder to discard; right?

1 PROSPECTIVE JUROR: (Nod head affirmatively up and
2 down.)

3 MR. KLEIN: Maybe you would agree not simple even
4 though we want to assure both sides we will leave our
5 opinions outside, maybe we can do it, maybe we can't.

6 Okay. So often, you know, people think that, you
7 know, New York City police officers are okay. Some of them
8 may be bad apples but you know bad apples in everything.
9 Most of them are probably pretty good and people tend to
10 think someone gets arrested, then they are probably guilty
11 of the crime for which they have been arrested, okay.

12 Okay, it's an opinion and it's actually a fair
13 opinion, right? And it might be an opinion that you have.
14 It is not bad to have it. You are allowed to have it.
15 Okay, it's just one of the things we are trying to do when
16 we try to pick a jury is, we try to figure out what do you
17 do about that; like what do you ask jurors to do because the
18 Judge says that you have to presume the individual's
19 innocent, who is sitting over there at that chair; and you
20 have to look over at him and say to yourself even though I
21 know he has been arrested by the New York City Police
22 Department, even though I know he was charged with a crime,
23 I could really follow that presumption of innocence that the
24 Judge gives and even though I generally share that opinion
25 and I know it's going to be in there working on me in some

1 ways, I am going to make an attempt to put that aside and
2 presume him innocent. So can you assure us that you will
3 make that attempt?

4 PROSPECTIVE JUROR: Yes, I will try to.

5 MR. KLEIN: Okay, and you could look over to
6 Mark Richardson knowing all you heard today or yesterday.
7 You don't have to ignore any of it and knowing the opinions
8 that you have and you could look over to him and say to all
9 us of us here, the fact that he sits there in my mind
10 doesn't make it likely or probable that he's the killer even
11 though I know that he has been arrested and charged with the
12 crime. Can you do that?

13 PROSPECTIVE JUROR: Yes.

14 MR. KLEIN: Ms. Lam, the same question to you even
15 though he is sitting over there, can you assure us that
16 knowing he has been arrested doesn't make it probable or
17 likely in any way that he's the killer in this case? Can
18 you do that?

19 PROSPECTIVE JUROR: Yes.

20 MR. KLEIN: Yes. Mr. Peters, similar question to
21 you, when you come in obviously everybody they look over
22 there and they see the guy sitting over at that chair. We
23 are all human beings. Here's the guy. He is arrested.
24 What is he charged with? Murder. It is a big thing. The
25 judge says it is an important case, and there is a tendency

1 to say if he is there, then he probably did it; otherwise,
2 he wouldn't be sitting there and then you come in and the
3 Judge says you really can't think that way in the courtroom.
4 That's not the way our system works and in here we presume
5 people innocent regardless of the fact they are sitting over
6 there; regardless of the fact, obviously, they have been
7 arrested; and we have a system where you decide not any
8 presumption of guilt, whether or not you decide you do it
9 presuming an individual is innocent.

10 PROSPECTIVE JUROR: It is a challenge.

11 MR. KLEIN: Listen, one thing about jury service
12 it is well-known especially here where the charge is so
13 serious, it is a challenge; and you have to then decide --
14 and it's not a moral judgment on you or anyone else -- if
15 anyone says, you know, listen it's a challenge and I'm up to
16 it and I don't mean as a sporting event. It is much more
17 serious than that, but it is a challenge but it is one I
18 want to take on and I can take on.

19 You are going to have to tell us you can if you
20 feel like because of past experiences, past opinions, your
21 whole life everything you read and what you thought about
22 the Criminal Justice System and everything else, you would
23 say it's a challenge; and, you know, I just don't know if I
24 am right for this case, then you and anyone else has to say
25 that to us, all right.

1 So can you look over at Mark Richardson and say I
2 know, Mr. Richardson, you have been arrested and you are
3 charged with the most serious crime in New York; but you
4 know, I could really put opinions aside and I could presume
5 you are innocent of this charge. Can you do that?

6 PROSPECTIVE JUROR NO.3: I think I have the
7 ability to do that.

8 MR. KLEIN: Is there anyone in any way -- Mr. Ma,
9 let me ask you a similar question, can you take on that
10 challenge in a very difficult situation and say even though
11 I know he has been arrested, I am going to presume him
12 innocent of the charges for which he has been accused? Will
13 you do that?

14 PROSPECTIVE JUROR: I will try to do that.

15 MR. KLEIN: A little doubt?

16 PROSPECTIVE JUROR: No, but I try to. I try my
17 best.

18 MR. KLEIN: Try your best?

19 PROSPECTIVE JUROR: Yeah.

20 MR. KLEIN: You know here's the thing, this is
21 when we make that decision right now. You can't like once
22 you start hearing evidence like come in and say to the
23 Judge, Hay, maybe I should have said something earlier. I
24 am not sure I can really follow the laws in this case; so in
25 a sense all we can ask is that you try your best.

1 Can you give us the assurance that, you know, I
2 can do that? I can presume innocence, not guilty who sits
3 over there. I could follow the instructions on that. I
4 will hold the district attorney to the burden of proof. If
5 the proof isn't there, I will acquit the individual.

6 PROSPECTIVE JUROR: I can presume he's innocent
7 before the trial.

8 MR. KLEIN: You can?

9 PROSPECTIVE JUROR: Yes.

10 MR. KLEIN: Okay. Anybody here? Ms. Armstrong,
11 any opinion on that at all?

12 PROSPECTIVE JUROR: No.

13 MR. KLEIN: Does it sound difficult or like a
14 challenge in any way; something that kind of you new before
15 you came in and you are happy?

16 PROSPECTIVE JUROR: No, it's fair. He deserves
17 the right of innocence before we come in with a judgment.

18 MR. KLEIN: You could put aside the fact,
19 obviously, someone must think he is guilty otherwise he
20 wouldn't be sitting here arrested, being accused. Grand
21 jury wouldn't have voted an indictment against him. You
22 could put all of that aside and say here we start as a clean
23 slate? As a matter of fact I presume him innocent of the
24 charges. Can you do that?

25 PROSPECTIVE JUROR: Yes, I don't know him so...

1 MR. KLEIN: Ms. McCormick, I brought this up last
2 time. I said, you know, one of the things about the
3 presumption of innocence is it has to do with the charges
4 that have been brought against him. You are to presume him
5 innocent of murder, innocent of sexual abuse, and innocent
6 of robbery, right? And it just applies to that, right?

7 PROSPECTIVE JUROR: Right.

8 MR. KLEIN: Like you don't have to sit there and
9 say to yourself, well, if I hear things about him that I
10 don't like, you know, like he doesn't seem like an innocent
11 person in general to me, right, you might think that, right?
12 Okay, I mean you might hear, no, he has been up to his own
13 stuff. I don't like anything about him. I don't think he
14 is a very appealing individual.

15 Maybe he has been involved in his own criminal
16 activity. You may find that, all right. If that happens,
17 though, can you assure the Court that you won't then say,
18 well, since he is not a total innocent, I am going to take
19 the presumption of innocence away from him? You could still
20 apply it, right?

21 PROSPECTIVE JUROR: I will still apply it, yes.

22 MR. KLEIN: Because we are not here to judge his
23 character. So even if you hear evidence you don't like, his
24 character, personality, you don't like the things he has
25 done, you don't like the fact he has been involved in his

1 own criminal activity, you won't then lesson the presumption
2 of innocence in this case about these charges, right?

3 PROSPECTIVE JUROR: Yeah.

4 MR. KLEIN: Ms. Haney, a similar question to you,
5 is that all right what I said?

6 PROSPECTIVE JUROR: Yes.

7 MR. KLEIN: So I think I raised this on Thursday.
8 I said sometimes it's easy to give someone a fair trial
9 because, well, we are not allowed to judge like you know
10 people we love like family members but -- for obvious
11 reasons -- but sometimes you know someone is on trial and
12 you hear a lot about them, that's really good.

13 They are an exemplar figure in the community and
14 in that situation it might be easy to say, well, yeah I am
15 going to give that person the presumption of innocence. It
16 is a 19 year old kid. Doesn't seem like he has done
17 anything wrong in his life. I don't want to convict him
18 unless it is really proven that he did it, right?

19 Well, you could say that's a case where it is easy
20 to assure someone the presumption of innocence, the right to
21 a trial. How do you do it in this case where I am telling
22 you, you know, as the trial goes on, you are going to look
23 over to him and say I don't like him. I don't like
24 Mark Richardson. I don't want him in my house. I don't
25 want him to be friends with people I know. I don't like

1 anything I hear about him.

2 I don't like his character. Can you still assure
3 the Court that in that situation you will still accord him
4 the presumption of innocence of the specific charges that
5 have been brought against him?

6 PROSPECTIVE JUROR: Yes.

7 MR. KLEIN: Okay. Mr. Guzman, same thing to you,
8 okay, you won't say if I don't like the guy, if I don't like
9 him then the heck with him and let's just convict him and
10 get out of here. You won't do that, right?

11 PROSPECTIVE JUROR: I won't.

12 MR. KLEIN: Okay. Ms. McIntosh, one of the things
13 I said I thought, jurors who were selected were going to
14 eventually hear specific reasons to dislike my client, okay.
15 One of them being that he lies to the police during a murder
16 investigation. Okay, all right. You are probably going to
17 hear that. I am pretty sure you are going to hear that.

18 Now you have a right to use that in your case,
19 obviously, however you want. If you think that's evidence,
20 you could use it against him, right? But people would
21 say if someone lies during a police investigation of a
22 murder, that's such a terrible thing to do that I can no
23 longer be neutral about that individual.

24 As a matter of fact, I dislike the concept so much
25 that I couldn't give someone who does that a fair trial, all

1 right; and what I need from you is an assurance that, yeah,
2 if you hear that he lies, obviously, you will consider what
3 does he lie about. Is it important? Is it not what he is
4 trying to hide; all of that stuff you will think about? And
5 could you also look over at him and assure him and say it
6 doesn't matter, Mr. Richardson? I may hear you are a liar;
7 no good. You didn't help the cops.

8 As a matter of fact you tried to not help the
9 cops, all of that stuff; and use it however you think is
10 appropriate but could you still give him a fair trial? Make
11 sure it is not just proven he is a liar or a big mouth; but
12 that he is guilty of this crime, right?

13 PROSPECTIVE JUROR: Yes.

14 MR. KLEIN: Mr. Ling, a similar question to you,
15 if you find out that Mr. Richardson lied during this police
16 investigation, okay, things he said about his own activities
17 and what he knew, what he did, they are not true; all right?

18 PROSPECTIVE JUROR: (Nod head affirmatively up and
19 down.)

20 MR. KLEIN: You could obviously use that as
21 evidence against him if you think it's appropriate, right?

22 PROSPECTIVE JUROR: (Nod head affirmatively up and
23 down.)

24 MR. KLEIN: Could you assure us if he did that, he
25 is so bad that he must be guilty of the crime; you won't do

1 that, will you?

2 PROSPECTIVE JUROR: No.

3 MR. KLEIN: Okay. Mr. Warheit?

4 PROSPECTIVE JUROR: Warheit.

5 MR. KLEIN: One of the things the judge instructed
6 you on, the defendant doesn't have to testify at trial;
7 right?

8 PROSPECTIVE JUROR: Ah-huh.

9 MR. KLEIN: You knew that already when you came
10 in?

11 PROSPECTIVE JUROR: Yes.

12 MR. KLEIN: About that, right, everyone has heard
13 it, the right to remain silent and all of that; right?

14 PROSPECTIVE JUROR: Ah-huh.

15 MR. KLEIN: The other part that the judge said is
16 actually maybe in many ways a more important part he said;
17 and if someone doesn't testify at their own trial, you can't
18 use it as any kind of evidence against him, right?

19 PROSPECTIVE JUROR: Ah-huh.

20 MR. KLEIN: You can't use it as any kind of
21 evidence of guilt? Is that okay?

22 PROSPECTIVE JUROR: Yep.

23 MR. KLEIN: Some people would say that, you know,
24 the guy is not going to take the witness stand and he is not
25 getting up to testify, he must be hiding his guilt. If he

1 got up there and the truth must be he did it; otherwise,
2 that's why he is staying off the witness stand. Right?

3 Other people say all sorts of things why people
4 don't take the witness stand. I need your assurance if you
5 are on the jury, you would follow the Judge's instruction
6 and say, no, that's the system we use here and I am not in
7 any way at all holding it against him if he doesn't testify.
8 Could you do that?

9 PROSPECTIVE JUROR: Yep.

10 MR. KLEIN: Mr. Lanzetta, same question to you, if
11 he doesn't testify?

12 PROSPECTIVE JUROR: Be a nonissue.

13 MR. KLEIN: Be a nonissue. Just a nonissue, okay.
14 Didn't some people say you have kids? Anyone have kids?
15 You came home one day and you if your child -- how old is
16 your child?

17 PROSPECTIVE JUROR: Twenty-one.

18 MR. KLEIN: Twenty-one years old. You say to a
19 twenty-one year old, you, know some of my money is missing
20 like whatever your child's name is; did you take it and they
21 say, mom, I got nothing to say. I have the right to remain
22 silent. You might think I know who did it, right? That's
23 the way we think outside the courtroom, right; but in a
24 courtroom, we have totally different rules. Yes?

25 PROSPECTIVE JUROR: Yes.

1 MR. KLEIN: You say if a guy is accused of a
2 crime, he could just sit there and it is a nonissue. If you
3 are on the jury and the defendant does not testify, it is a
4 nonissue.

5 How about if as the trial goes on, you hear me,
6 witnesses testify and I don't do all that much, okay. I
7 don't get up and I don't try to show that a cop, you know,
8 all these people aren't telling the truth or something; and
9 you say at the end, boy, it doesn't sound like Mr. Klein
10 really tried to prove that his client is innocent. You
11 might decide that at the end of the case.

12 You might think when does the defense lawyer try
13 to prove that his client didn't do it, right? And you might
14 say it never happened here. I thought that happened in the
15 courtroom, okay; but the Judge said, you know, the defendant
16 doesn't have to prove his innocence, right? It is not our
17 job to get up and convince you that he didn't do the crime,
18 right? It is really the prosecution and only the
19 prosecution that has the burden to prove something, right?

20 If he proves it, so be it. If he doesn't prove
21 it, you can't look over at me and say I am not going to
22 acquit him because you didn't prove that he was innocent,
23 all right? So let's say you are in the jury room. The case
24 is ended and you are arguing back and forth talking as you
25 are suppose to amongst yourself, and someone says he was

1 proven. Someone else says, no, I don't really think it was
2 proven.

3 I mean you wouldn't then say, well, he is probably
4 guilty because Mr. Klein didn't prove he was innocent,
5 right? I mean I am not going to try to prove anything to
6 you, right? I am not going to try to prove his innocence,
7 okay. It is not my burden to, all right, and you can't hold
8 it against me or hold it against my client or assume he must
9 be guilty just because I don't try to do something; that
10 there is no expectation that it be done in a courtroom, all
11 right?

12 Okay. Anybody have a problem like that? Anyone
13 think I don't like it, well, you know you could have
14 whatever opinion you want. You could say I don't think
15 that's a good system. I think if he didn't do a crime, you
16 should have to prove you weren't there. You should have to
17 prove your innocence, I think; whatever you want; but you've
18 got to assure us you won't use a rule like that in this
19 courtroom. Okay? Ms. Brown, all right?

20 PROSPECTIVE JUROR: (Nod head affirmatively up and
21 down.)

22 MR. KLEIN: Mr. Ling? People have from all sorts
23 of things, they read TV and everything else. Ideas about
24 evidence, scientific evidence, DNA, what can be done, and
25 what can't be done. Yes, we have all seen this and,

1 Ms. Sulser, you saw this stuff on TV? You read about it and
2 one thing that was said earlier was even if all that stuff
3 exists, you know, you never are going to get all the answers
4 to something that you'd like to get all the answers to; and
5 I assume you've been in positions like that before where you
6 had to make decisions, right?

7 And sometimes you say, okay you know what, I have
8 been told a lot. I know a lot but I have been told enough.
9 I have enough and I could come up with the answer and
10 sometimes you have to make a decision; and you said, I don't
11 know if I've got enough to really make a decision. There is
12 something missing here; and I am not really convinced that I
13 know enough yet to make a real decision, right?

14 Okay, when you are in this courtroom one thing the
15 Judge is going to tell you he is going to say, you know,
16 when you are considering the case you have to consider the
17 evidence and the lack of evidence, right? What's proven to
18 you and what's not proven to you, all right? And then you
19 make a decision based on what the judge tells you; whether
20 you have enough to make a confident decision, all right?

21 I mean no one is telling you and no one will ever
22 tell you don't ignore the lack of evidence. Don't ignore
23 things that you don't know. Just evaluate them. Think
24 about them. Decide if they are important or not important.
25 Decide if you can make a good decision or not. All right.

1 (Juror Rose entered the courtroom at 2:55 p.m.)

2 MR. KLEIN: Anyone else?

3 THE COURT: He was fixing his phone.

4 PROSPECTIVE JUROR: Thank you.

5 THE COURT: Thank you, Mr. Klein. Ladies and
6 gentlemen, the attorneys are now going to make their
7 selections from this group. I ask everyone to wait outside
8 for a few minutes while they do this. Please do not discuss
9 the case. Thank you.

10 (Prospective Jurors exiting the courtroom.)

11 THE COURT: Mr. Schuster?

12 PROSPECTIVE JUROR: I apologize. I should have
13 brought it up earlier. I remember last week you had
14 mentioned the trial should end early on the week of
15 twenty-sixth. Right now I am scheduled to be out of the
16 state on Friday, September 30th at a wedding. I don't know
17 if that's within the timeline.

18 THE COURT: No. I could assure you, you will be
19 able to attend the wedding.

20 PROSPECTIVE JUROR: My wife would kill me.

21 THE COURT: She will kill me maybe but she won't
22 kill you.

23 PROSPECTIVE JUROR: Thank you very much.

24 (Prospective Juror Schuster exited the courtroom.)

25 THE COURT: Take a look at all of them and let me

1 know when you are ready.

2 MR. BOGDANOS: Ready.

3 THE COURT: Before you get too far into it,
4 Mr. Rose, did not appear until the very last minute or two
5 of your questioning, Mr. Klein. If you want to bring him in
6 to ask additional questions or if really either side wants
7 to bring him in, that's fine.

8 MR. KLEIN: I would like to bring him in
9 actually.

10 MR. BOGDANOS: Is your Honor not going to -- your
11 Honor is not going to entertain a challenge for cause
12 against him? That would be, Mr. Klein --

13 THE COURT: I would not entertain it just for his
14 late appearance.

15 MR. BOGDANOS: Fair enough. I am going to
16 challenge him peremptorily anyway. I don't want to waste
17 anytime on him.

18 MR. KLEIN: Okay.

19 MR. BOGDANOS: I don't mind telling you up front I
20 am going to do that.

21 THE COURT: It's appreciated. Thank you. Off the
22 record.

23 (Off-the-record discussion.)

24 MR. BOGDANOS: I am sorry, Judge, I am ready. I
25 didn't realize.

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1 THE COURT: You are ready too?

2 MR. KLEIN: Yes.

3 THE COURT: Are you ready, Jeanette?

4 THE COURT CLERK: Yes, your Honor.

5 THE COURT: Let's start out by agreeing on the
6 number of peremptories used. So far I have the People are
7 using two and the defense using five.

8 MR. BOGDANOS: Correct.

9 THE COURT CLERK: Correct, that's what I have,
10 your Honor.

11 THE COURT: Agreed?

12 MR. KLEIN: Yes.

13 THE COURT: All right, we have four selected
14 jurors so we will start with the first eight, Armstrong
15 through Brown, any challenges for cause in that group,
16 Mr. Bogdanos?

17 MR. BOGDANOS: No, your Honor.

18 THE COURT: None?

19 MR. BOGDANOS: No, your Honor.

20 THE COURT: Mr. Klein, for cause?

21 MR. KLEIN: Yes, I would challenge Mr. Ma. There
22 were two points during the district attorney's voir dire
23 where it did not appear that he understood what was going
24 on. One of them when he answered the question in the wrong
25 manner. By wrong manner I just mean showing incomprehension

1 and another where the district attorney asked everybody
2 raise their hand. Everybody did, except he didn't because
3 he obviously didn't comprehend the instruction that had been
4 given. Although I appreciate that he is an editor of a
5 journal, I am not confident that his English rises to the
6 level that's required here.

7 MR. BOGDANOS: On the question that was posed by
8 me, actually I misunderstood my own question because your
9 Honor actually interrupted with the correct -- what ought to
10 have been the correct answer; so I don't think my awful
11 question ought to be something that Mr. Ma is penalized for;
12 and you know it's interesting, Mr. Ma is the one who
13 actually said the words you can presume him innocent.

14 I don't think there is any language issue
15 whatsoever with Mr. Ma. I think he understood completely
16 throughout the course of the jury selection. We both --
17 Mr. Klein and I, all attorneys on occasion ask questions
18 that are simply too long to be answered in simple yes or no
19 or hand raising and that's on us, not on them, so I think
20 the totality of the circumstances indicates that he well
21 understood what was going on.

22 THE COURT: Well, let's bring him in. We will ask
23 a few more questions. His body language did leave something
24 to be desired.

25 THE COURT OFFICER: What is his name?

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1 THE COURT: Mr. Ma.

2 (Prospective juror Ma entered the courtroom.)

3 THE COURT OFFICER: Juror entering.

4 THE COURT: Mr. Ma, if you would step up please at
5 the rail. We would like to ask you a few additional
6 questions. English language?

7 PROSPECTIVE JUROR: English.

8 THE COURT: English?

9 PROSPECTIVE JUROR: Huh? I am not sure.

10 THE COURT: Listen to me.

11 PROSPECTIVE JUROR: I am not sure.

12 THE COURT: First question, have you been able to
13 understand everything that has been said so far?

14 PROSPECTIVE JUROR: So far I understand but in the
15 real trial, I am not sure, real trial.

16 THE COURT: So you have doubts about being able to
17 follow the testimony?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Do you have doubts about going back
20 into the jury room and being able to discuss the case with
21 your fellow jurors in English?

22 PROSPECTIVE JUROR: So far I really -- not sure.
23 Really not sure because I never have been to a courtroom;
24 and I am afraid some terms, you know, medical terms, the
25 legal terms I could get confused.

1 THE COURT: How many years have you been speaking
2 English?

3 PROSPECTIVE JUROR: Since very little; since I am
4 a boy but I don't speak very often.

5 THE COURT: Well, going back to your comprehension
6 is there anything that I said that you did not understand?

7 PROSPECTIVE JUROR: So far, no.

8 THE COURT: How about the attorneys, did you
9 understand everything that they said?

10 PROSPECTIVE JUROR: I understand.

11 THE COURT: All right, any questions from counsel?

12 MR. KLEIN: What are you nervous about happening?
13 Not being able to participate in the discussion or not being
14 able to express all your own ideas?

15 PROSPECTIVE JUROR: In fact, I have confidence but
16 you know sometimes I maybe misunderstood something. May
17 misunderstood. Then there will lead to a very terrible
18 result.

19 THE COURT: That's it.

20 MR. KLEIN: (Nod head affirmatively up and down.)

21 THE COURT: Thank you, Mr. Ma.

22 PROSPECTIVE JUROR: Okay, thank you.

23 THE COURT: Please rejoin the others.

24 MR. BOGDANOS: Judge, I don't know how that rises
25 to the level of challenge for cause. He is concerned with

1 medical terms and legal terms. That's everybody's concern
2 here who is not a lawyer or a doctor is concerned about
3 medical and legal terms. They will be explained.

4 He even said in response to Mr. Klein's question
5 he has confidence that he will be able to express himself.
6 Sure, his English isn't perfect; but I don't see how that
7 distinguishes him from a specific percentage of the veneer
8 that we see on a daily basis.

9 THE COURT: Mr. Klein?

10 MR. KLEIN: I thought his last comment really
11 summed it up. He would like to but he understands that he
12 might misunderstand some things and that could lead to a
13 tragic result. I think he expressed the reason why he needs
14 to be challenged for cause.

15 THE COURT: Thank you both. Mr. Ma is excused.
16 Anyone else for cause?

17 MR. KLEIN: No, Judge.

18 THE COURT: Peremptories, Mr. Bogdanos?

19 MR. BOGDANOS: Yes, No. 5, Mr. Rose and No. 8,
20 Ms. Brown and that's it.

21 THE COURT: Mr. Klein?

22 MR. KLEIN: Judge, I think a record has to be
23 made. In the eight people there were two African American
24 people; one man, one woman. Both of them have been stricken
25 by the district attorney. Not raising the level one

1 challenge but I think the record should reflect it.

2 MR. BOGDANOS: And the record should also reflect
3 we know two for two is not sufficient; but No. 5, Mr. Rose,
4 has a prior drug conviction and his last job was in the
5 Parks Department. The defendant when he committed this
6 murder was working in the Parks Department. Okay.

7 THE COURT: He has not raised the challenge.

8 MR. BOGDANOS: I got it but your Honor has pointed
9 out the record are records and with regard to Ms. Brown,
10 whose niece is a Corrections officer, I believe that we will
11 have an inmate from Riker's Island testifying in this case.
12 I don't want anyone having any connections to Corrections
13 officers.

14 I have no idea whether her niece comes home and
15 tells her about the inmates good, bad, indifferent. I am
16 not taking the chance so her niece is a Corrections officer.
17 She is off.

18 MR. KLEIN: Yes. No. 2, No. 3, No. 7.

19 THE COURT CLERK: Names?

20 MR. KLEIN: Sorry, No. 2, Hedges; No. 3, Peters;
21 No. 7 is Weiner.

22 THE COURT: That leaves Ms. Armstrong to be juror
23 No. 5 and Mr. Guzman to be No. 6; is that correct?

24 MR. BOGDANOS: Yes, your Honor.

25 MR. KLEIN: Yes.

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1 THE COURT: You got that?

2 THE COURT CLERK: Five and six.

3 THE COURT: The next six Ling through Sulser,
4 challenges for cause, Mr. Bogdanos?

5 MR. BOGDANOS: None.

6 THE COURT: Mr. Klein?

7 MR. KLEIN: None.

8 THE COURT: Peremptories?

9 MR. BOGDANOS: None.

10 THE COURT: Mr. Klein?

11 (Defense Attorney Klein conferred with defendant.)

12 MR. KLEIN: Thirteen and fourteen.

13 THE COURT CLERK: Lam and Sulser?

14 THE COURT: Yes, so that means that Mr. Ling, will
15 be Juror 7; Mr. Schuster, Juror 8, Ms. Haney, nine, and
16 Ms. McCormick, ten. Next two Lee and Warheit, challenge for
17 cause?

18 MR. BOGDANOS: No.

19 MR. KLEIN: No.

20 THE COURT: Peremptories?

21 MR. BOGDANOS: No.

22 MR. KLEIN: Mr. Lee.

23 THE COURT: So Mr. Warheit becomes Juror 11.
24 Lanzetta for the last spot, challenges for cause?

25 MR. BOGDANOS: No.

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1 MR. KLEIN: No.

2 THE COURT: Peremptories?

3 MR. BOGDANOS: No.

4 MR. KLEIN: Yes.

5 THE COURT: McIntosh, challenges for cause?

6 MR. BOGDANOS: No.

7 MR. KLEIN: No.

8 THE COURT: Peremptories?

9 MR. BOGDANOS: Yes.

10 THE COURT: How many do we have in the wheel? Off
11 the record.

12 (Off-the-record discussion.)

13 THE COURT CLERK: Fourteen, your Honor.

14 THE COURT: Both sides agree to put everybody who
15 is left in the box?

16 MR. KLEIN: Yes.

17 MR. BOGDANOS: Yes.

18 THE COURT: Both sides ready for the jurors?

19 MR. BOGDANOS: Yes, Judge.

20 MR. KLEIN: Yes.

21 THE COURT: Thank you.

22 (Prospective jurors entered the courtroom.)

23 THE COURT: Jeanette.

24 THE COURT CLERK: Case on trial continued. People
25 of the State of New York against Mark Richardson. Both

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1 sides stipulate all jurors are present?

2 MR. BOGDANOS: Yes.

3 MR. KLEIN: Yes.

4 THE COURT: Ladies and gentlemen, this time around
5 seven of you have been selected. We are making great
6 progress. You heard what I said to the first group. I
7 won't repeat all those remarks; but everyone should
8 understand that this is just one case and if you were not
9 selected for this one, that doesn't mean you won't be
10 selected the next time around. To the contrary, everyone,
11 all of you participated fully; put up with us over,
12 unfortunately, for an extended period of time and answered
13 all these questions and we -- this is really what makes the
14 system what it is; and we really appreciate it very, very
15 much and again the consolation prize is if you are excused
16 from this case, I do believe you will be sent walking when
17 you get back upstairs and your tour of duty will be over.
18 All right, Jeanette, if you would announce the results,
19 please.

20 THE COURT CLERK: Would the following jurors
21 please remain seated. Lucy Armstrong, Isadoro Guzman,
22 Che Ling, Adam Schuster, Lourdine Haney, Esmerelda
23 McCormick, Benjamin Warheit. The rest of you may report
24 back to the central jury room.

25 (Prospective Jurors exited the courtroom.)

1 THE COURT: We are missing somebody. Hold on.
2 Mr. Guzman, come right back here. Not so fast.

3 (So done.)

4 THE COURT: We are good.

5 THE COURT CLERK: Both sides stipulate that all
6 jurors are present and properly seated?

7 MR. BOGDANOS: Yes.

8 THE COURT CLERK: I am sorry.

9 THE COURT: Are the remaining jurors satisfactory
10 to the People?

11 MR. BOGDANOS: Yes.

12 THE COURT CLERK: To the defendant?

13 MR. KLEIN: Yes.

14 THE COURT CLERK: Jurors, please stand.

15 (Jury was duly sworn and/or affirmed.)

16 THE COURT: You may be seated. Same announcement
17 that I gave the first group. We are going to ask all of you
18 to come back eleven o'clock tomorrow morning. We now have
19 eleven jurors so we are in good shape. We have some time
20 left this afternoon and hopefully will be able to finish the
21 job and move onto the next phase of the trial tomorrow
22 morning.

23 On your way out one of the officers needs to ask
24 you a couple of questions. That's it. Tomorrow morning.
25 Please do not discuss the case.

1 (Sworn jurors exited the courtroom.)

2 THE COURT: All right, folks, all of you will be
3 considered together as round three. Once again if anyone
4 has had a change of position about anything, or question
5 about something, you may raise it now before we go to the
6 wheel. Anyone?

7 All right, we will put nine in the front row and
8 the rest will be in the back.

9 THE COURT CLERK: Richard Kirkland, Jr.,
10 K-I-R-K-L-A-N-D, seat No. 1; Kelly Pasterick,
11 P-A-S-T-E-R-I-C-K, seat No. 2; Rachel Rios Rodriguez,
12 R-I-O-S, R-O-D-R-I-G-U-E-Z, seat No. 3; Rosemary Romero,
13 R-O-M-E-R-O, seat No. 4; Vanessa Rodriguez,
14 R-O-D-R-I-G-U-E-Z, seat No. 5; Lana Kim, seat No. 6; Juan
15 Batista, B-A-T-I-S-T-A, seat No. 7; Neal Hay, H-A-Y, seat
16 No. 8; Shirley Schwartz, S-C-H-W-A-R-T-Z; seat No. 9;
17 Charles Apostolou, A-P-O-S-T-O-L-O-U, seat No. 10; Keith
18 Dawson, D-A-W-S-O-N, seat No. 11; Judith Lieb, L-I-E-B, seat
19 No. 12; Kenneth Witters, W-I-T-T-E-R-S; seat No. 13.

20 THE COURT OFFICER: No response.

21 THE COURT CLERK: Martin Hermens, M-A-R-T-I-N,
22 H-E-R-M-E-N-S, seat No. 13.

23 THE COURT: That's it?

24 THE COURT CLERK: That's it.

25 THE COURT: Thank you. May I have the board.

1 (Hanging.)

2 THE COURT: All right, are you ready? This will
3 be the lightning round. We will do this as fast as we can
4 meaning no disrespect because of you. We are up against the
5 clock and also you heard everything -- you really have --
6 and we should be able to get through this quickly; but we
7 are going to start out with the personal questions going
8 right down the line. Mr. Kirkland, good afternoon, sir. I
9 will do question and answer for a few and if you want to
10 start volunteering, that's fine. Do you live alone or with
11 someone else?

12 PROSPECTIVE JUROR: I live with my wife. Upper
13 West Side.

14 THE COURT: What is your occupation, sir?

15 PROSPECTIVE JUROR: I was a magazine editor for
16 many years. I am editorial director in a large consulting
17 firm.

18 THE COURT: Highest degree?

19 PROSPECTIVE JUROR: MA.

20 THE COURT: Free time activities?

21 PROSPECTIVE JUROR: Gardening, reading, exercise,
22 playing.

23 THE COURT: Organizations?

24 PROSPECTIVE JUROR: Juvenile Diabetes Research
25 Foundation Board. Very active. Duke University Board of

1 Governors and the National Center For Journalists.

2 THE COURT: Current events?

3 PROSPECTIVE JUROR: News junky. I read
4 newspapers, magazines, on-line, TV.

5 THE COURT: Thank you, sir. Ms. Pastara (sic). I
6 must have written it down wrong.

7 PROSPECTIVE JUROR: Pasterick.

8 THE COURT: Pasterick. I am sorry. I did write
9 it down right. Do you live alone or with someone else?

10 PROSPECTIVE JUROR: I live alone in midtown east.

11 THE COURT: What is your occupation, please?

12 PROSPECTIVE JUROR: I am a director of a corporate
13 treasury for a large Fortune 500 company.

14 THE COURT: What is your highest education?

15 PROSPECTIVE JUROR: MBA and CPA as well.

16 THE COURT: Free time activities?

17 PROSPECTIVE JUROR: Exercise, travel.

18 THE COURT: Organizations?

19 PROSPECTIVE JUROR: American Institute of CPA's
20 and Pennsylvania Institute of P.C.A.'s.

21 THE COURT: Professional?

22 PROSPECTIVE JUROR: (Nod head affirmatively up and
23 down.)

24 THE COURT: Current events?

25 PROSPECTIVE JUROR: Wall Street Journal and

1 Bloomberg everyday.

2 THE COURT: Thank you, Mr. Pasterick.

3 Ms. Rodriguez No. 1, do you live alone or with someone else?

4 PROSPECTIVE JUROR: My husband. I am married.

5 THE COURT: Which neighborhood?

6 PROSPECTIVE JUROR: Inwood, Washington Heights.

7 THE COURT: Are you working?

8 PROSPECTIVE JUROR: I am unemployed. I have a
9 Bachelor of Arts in Sociology. Case aide.

10 THE COURT: Bachelors of Arts in Sociology.

11 MR. BOGDANOS: I couldn't hear you before.

12 PROSPECTIVE JUROR: I am unemployed. Looking for
13 a job.

14 MR. BOGDANOS: Before that you said?

15 PROSPECTIVE JUROR: I was a case aide.

16 MR. BOGDANOS: Case aide. Sorry.

17 THE COURT: What do you like to do in your free
18 time?

19 PROSPECTIVE JUROR: I read and TV.

20 THE COURT: Belong to any organizations?

21 PROSPECTIVE JUROR: I go to church. That's about
22 it.

23 THE COURT: Do you try to keep up with current
24 events?

25 PROSPECTIVE JUROR: Yeah, the news.

1 THE COURT: Everyday?

2 PROSPECTIVE JUROR: Yeah.

3 THE COURT: Thank you. Ms. Romero?

4 PROSPECTIVE JUROR: I live in Inwood with my
5 parents. I work in the Compliance Department for a
6 financial company. I am a member of a couple of
7 professional organizations. One is the Association For
8 Certified and Money Laundering Specialist; and in my free
9 time I read. Spend time with my family and I guess I have a
10 BA in Psychology.

11 THE COURT: You also keep up with current events?

12 PROSPECTIVE JUROR: Yes, daily.

13 THE COURT: Thank you, Ms. Romero. Ms. Rodriguez
14 No. 2.

15 PROSPECTIVE JUROR: I live alone. I live in
16 Tribeca. I work for the Board of Ed. I also teach after
17 school baking class. Current events, sometimes Internet but
18 the newspaper mostly. I like to exercise and go out
19 socially with friends and just...

20 THE COURT: Are you active in any organizations?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Your highest degree?

23 PROSPECTIVE JUROR: High school.

24 THE COURT: High school?

25 PROSPECTIVE JUROR: (Nod head affirmatively up and

1 down.)

2 THE COURT: Thank you. Ms. Kim?

3 PROSPECTIVE JUROR: Hi. I live in Harlem with my
4 sister. I work for the city in construction and building
5 management. My highest degree is a masters. Free time, I
6 like to eat out and watch football. Organizations, I am on
7 the board for a mentoring program in Washington Heights and
8 a member of a church; and I keep up with current events
9 daily.

10 THE COURT: Thank you, Ms. Kim. Mr. Batista?

11 PROSPECTIVE JUROR: Yes. Single. I have a
12 roommate. I have an Associates. I live in
13 Morningside Heights. I watch news on TV and the internet
14 and no organizations.

15 THE COURT: Your highest degree?

16 PROSPECTIVE JUROR: Associates.

17 THE COURT: I am sorry, you said that. Where do
18 you work?

19 PROSPECTIVE JUROR: I am unemployed. I was an
20 officer manager before.

21 THE COURT: Thank you. Mr. Hay?

22 PROSPECTIVE JUROR: I am married. I live on the
23 upper east side. I am the head of structural and plumbing
24 for a large UK bank. My highest degree is BA. In my spare
25 time I undertake triathlons, baseball.

1 THE COURT: Organizations?

2 PROSPECTIVE JUROR: Some sports organization. I
3 am a member of USA Triathlon New York Road Runners and
4 member of an Episcopal church.

5 THE COURT: Are you keeping up with the current
6 events?

7 PROSPECTIVE JUROR: I am an Internet junkie.

8 THE COURT: Ms. Schwartz?

9 PROSPECTIVE JUROR: I live up in Washington
10 Heights. I live with my four dogs. I am also a teacher and
11 a Fiasion (sic) Columbia graduate. I speak a couple of
12 other languages. My hobbies, I run, love music, cook. I
13 read a lot and I have friends. Entertain.

14 THE COURT: Are you active in any organizations?

15 PROSPECTIVE JUROR: UFT, Federation of Teachers
16 and also New York Society in Brooklyn, families and friends.

17 THE COURT: All right, thank you. The back row,
18 Mr. Apostolou?

19 PROSPECTIVE JUROR: Hello, Judge.

20 THE COURT: Hello.

21 PROSPECTIVE JUROR: I am retired. Living alone.
22 Upper West Side. I have a Masters in Business. Hobbies
23 travel, photography. Do not belong to any associations.

24 THE COURT: Current events, keep up?

25 PROSPECTIVE JUROR: Almost exclusively on-line,

1 BBC, CNN, New York Times, Washington Post.

2 THE COURT: I think you hit them all. Thank you.
3 Mr. Dawson is next.

4 PROSPECTIVE JUROR: Good afternoon, Judge.

5 THE COURT: Good afternoon.

6 PROSPECTIVE JUROR: Highest degree. Associates,
7 Telecommunication. I live with my wife currently down south
8 with my mother-in-law with cancer. I live up in Harlem.

9 THE COURT: Free time?

10 PROSPECTIVE JUROR: Free time I volunteer
11 Veteran's Hospital.

12 THE COURT: Do you keep up with current events?

13 PROSPECTIVE JUROR: Yes, I do. On-line, Time
14 magazine.

15 THE COURT: Did you mention where you work?

16 PROSPECTIVE JUROR: Excuse me, I am up in Harlem.

17 THE COURT: What do you do?

18 PROSPECTIVE JUROR: I am retired.

19 THE COURT: What sort of work did you do?

20 PROSPECTIVE JUROR: Telecommunications.

21 THE COURT: Thank you. Ms. Lieb?

22 PROSPECTIVE JUROR: Hi, how are you?

23 THE COURT: Good. Good.

24 PROSPECTIVE JUROR: I live upper West Side with my
25 daughter. I have a JED degree. I am a Judge. I sit in

1 Supreme Court in Bronx Criminal Division. I belong to
2 professional associations. I read the New York Times
3 everyday and I like photography, reading, bridge.

4 THE COURT: And before you became a Judge, did you
5 practice law on the criminal side?

6 PROSPECTIVE JUROR: Yes, I handled one murder case
7 as a defense attorney and then I was a prosecutor at the
8 Eastern District, US Attorney's Office for eight years.

9 THE COURT: You don't have any -- we will get to
10 that. Thank you very much, Judge Lieb. Finally,
11 Mr. Hermens?

12 PROSPECTIVE JUROR: I live upper west side with my
13 fiance. I have a bachelor's degree. I work as an analyst
14 with a bank. Free time I enjoy banking, running, travel;
15 and I keep up with the news consistently. Internet,
16 newspaper.

17 THE COURT: Thank you, sir. And now the next set
18 of questions beginning with prior jury experience, have any
19 of you had occasion to serve on a criminal case in the past
20 or civil case or even the grand jury. Ms. Romero?

21 PROSPECTIVE JUROR: I was in 2001 on a civil case.
22 It settled.

23 THE COURT: So no deliberations in that case or
24 did you deliberate?

25 PROSPECTIVE JUROR: No, settled after almost a

1 month and a half.

2 THE COURT: Too bad. Or maybe you were happy
3 about that. Ms. Rodriguez?

4 PROSPECTIVE JUROR NO.3: I served I think it was
5 ten years ago. It was a civil case and we got to deliberate
6 and --

7 THE COURT: You reached a decision?

8 PROSPECTIVE JUROR: We reached a decision.

9 THE COURT: Very good. Very good. Ms. Pasterick?

10 PROSPECTIVE JUROR: Assault case in the '90's.

11 THE COURT: Deliberations?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Verdict?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Was that trial here in Manhattan?

16 PROSPECTIVE JUROR: No, it was in Pennsylvania.

17 THE COURT: Thank you. No one else?

18 Ms. Schwartz, you served on a case?

19 PROSPECTIVE JUROR: Yes, it was narcotics, THC,
20 criminal cocaine; but they decided they wanted the case
21 was --

22 THE COURT: Did you go back and deliberate?

23 PROSPECTIVE JUROR: Yes, we did.

24 THE COURT: You reached a verdict? You don't have
25 to tell us what the verdict was but did you come to a

1 decision?

2 PROSPECTIVE JUROR: We came to a decision.

3 THE COURT: And -- and was that case in Manhattan?

4 PROSPECTIVE JUROR: It was in Manhattan.

5 THE COURT: Can you approximate how many years
6 ago?

7 PROSPECTIVE JUROR: Approximately seven years.
8 Seven.

9 THE COURT: Seven? All right, anyone else? Now,
10 conflicts with the law, have you or anyone close to you ever
11 had a conflict with the law? Again an arrest of some sort.
12 Mr. Batista?

13 PROSPECTIVE JUROR: Menacing charge. It was
14 dismissed.

15 THE COURT: This happened to you?

16 PROSPECTIVE JUROR: Yeah, It was put against me.

17 THE COURT: How many years ago was that?

18 PROSPECTIVE JUROR: 2003.

19 THE COURT: Where was it? Did it happen here in
20 Manhattan?

21 PROSPECTIVE JUROR: Yeah.

22 THE COURT: And you say it was dismissed?

23 PROSPECTIVE JUROR: Yeah.

24 THE COURT: So but still it was in Manhattan and
25 this case is in Manhattan too. Is there any question in

1 your mind as to whether or not you could be a fair and
2 impartial juror because of that incident?

3 PROSPECTIVE JUROR: No, it wasn't a problem to me.

4 THE COURT: So you could make the promise to both
5 sides you will be fair and impartial?

6 PROSPECTIVE JUROR: Sure.

7 THE COURT: Anyone else? Ms. Pasterick?

8 PROSPECTIVE JUROR: I have a brother who was
9 arrested for drunk driving.

10 THE COURT: This case is still going on or over?

11 PROSPECTIVE JUROR: It actually is still going on
12 outside of Manhattan in Pennsylvania.

13 THE COURT: Did you attend any of those sessions?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Anything about that case that would
16 affect you hear?

17 PROSPECTIVE JUROR: No. No.

18 THE COURT: Thank you. No one else?

19 Law enforcement, do any of you know anyone, happen
20 to know anyone who works in law enforcement? Ms. Romero?

21 PROSPECTIVE JUROR: My brother is a police
22 officer. I didn't recognize anyone on the witness list, but
23 I believe my brother's precinct is near the area. I am not
24 sure it is the same precinct. I might know people.

25 THE COURT: Which precinct is your brother in?

1 PROSPECTIVE JUROR: The 33rd.

2 THE COURT: 33rd. Mr. Batista?

3 PROSPECTIVE JUROR: Brother is Teaneck, PD in
4 New Jersey and a friend in the Terrorism in New York.

5 THE COURT: Not far away at all. Mr. Hay?

6 PROSPECTIVE JUROR: I grew up with a lot of my
7 family trying to be a police officer. Obviously in the UK;
8 not here in Manhattan. I have a friend who works in the
9 District Attorney's Office but in Brooklyn.

10 THE COURT: Brooklyn? Okay. Mr. Hermens?

11 PROSPECTIVE JUROR: Yeah, my father is a retired
12 prosecutor.

13 THE COURT: From?

14 PROSPECTIVE JUROR: In Oregon.

15 THE COURT: Thank you, and Judge Lieb?

16 PROSPECTIVE JUROR: Just I was a prosecutor and
17 some friends from --

18 THE COURT: This is the question I had for you.
19 Do you know anyone who works in the Manhattan DA's Office?

20 PROSPECTIVE JUROR: Do I know anyone who works
21 there?

22 THE COURT: Any friends?

23 PROSPECTIVE JUROR: I know people but not friends.
24 I know friends who were in the office.

25 THE COURT: I mean now?

1 PROSPECTIVE JUROR: No, not really.

2 THE COURT: Thank you. Mr. Dawson?

3 PROSPECTIVE JUROR: Yes, I have a cousin who is a
4 U.S. marshal and a niece who is a New York City police
5 officer.

6 THE COURT: Thank you. Anyone else?

7 Victim of a crime, have you or anyone close to you
8 ever been the victim of a crime? Mr. Kirkland?

9 PROSPECTIVE JUROR: My wife was assaulted some
10 months ago. Jewelry ripped off.

11 THE COURT: In Manhattan?

12 PROSPECTIVE JUROR: In Manhattan.

13 THE COURT: Was reported?

14 PROSPECTIVE JUROR: There were a lot of incidents
15 that night. We did not report it.

16 THE COURT: Anyone else in the front?
17 Mr. Batista?

18 PROSPECTIVE JUROR: I was robbed at gunpoint in
19 Washington, DC and I had an uncle that was murdered.

20 THE COURT: Robbery in DC, when was that?

21 PROSPECTIVE JUROR: '97.

22 THE COURT: And did you call -- notify the police
23 in some way?

24 PROSPECTIVE JUROR: No. I was happy to get out of
25 town. It was a bus ride through, yeah. It was when -- the

1 height of the DA's murder rate. I just wanted to get out of
2 there.

3 THE COURT: The other case you mentioned, it was
4 prosecuted?

5 PROSPECTIVE JUROR: No, it's unsolved.

6 THE COURT: Unsolved. Mr. Hay?

7 PROSPECTIVE JUROR: My wife was the subject of two
8 armed robberies in the mid 1990's. Both in the United
9 kingdom; not here. One was solved. One wasn't. I didn't
10 go to court.

11 THE COURT: Was there a trial?

12 PROSPECTIVE JUROR: There was.

13 THE COURT: She sort of testified?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: You discussed that with her?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: That would come into play here?

18 PROSPECTIVE JUROR: I don't believe so.

19 THE COURT: You could promise both sides that you
20 would be fair?

21 PROSPECTIVE JUROR: Absolutely. Absolutely.

22 THE COURT: Thank you. Mr. Hermens?

23 PROSPECTIVE JUROR: My brother was a victim of
24 attempted murder in Oregon. The case went to trial.

25 THE COURT: You don't have to tell us what

1 | happened but when did the trial occur?

2 | PROSPECTIVE JUROR: This was 2007.

3 | THE COURT: Did your brother testify?

4 | PROSPECTIVE JUROR: Yes.

5 | THE COURT: Did you watch the trial?

6 | PROSPECTIVE JUROR: No, I did not.

7 | THE COURT: Anything about that trial that would
8 | affect you here?

9 | PROSPECTIVE JUROR: Absolutely not.

10 | THE COURT: All right. Thank you. Judge Lieb?

11 | PROSPECTIVE JUROR: Just had a wallet stolen a
12 | long time ago. I didn't report it and you know it was fine.

13 | THE COURT: Thank you. Mr. Apostolou?

14 | PROSPECTIVE JUROR: I was mugged fourteen years
15 | ago and my mother was mugged about thirty years ago.

16 | THE COURT: Did you -- the mugging that happened
17 | to you, did you report it?

18 | PROSPECTIVE JUROR: Well, it was in Florence,
19 | Italy; and there was a language barrier so what I got was a
20 | lot of shrugs.

21 | THE COURT: The other one?

22 | PROSPECTIVE JUROR: With my mother it was late at
23 | night and she came up and she was bruised and she couldn't
24 | describe what happened except it was in the neighborhood.

25 | THE COURT: When you say the neighborhood was it

1 in Manhattan?

2 THE WITNESS: Yes.

3 THE COURT: Thank you. Let's move on. Once again
4 I will give you the language concerning the fundamental
5 principles of criminal law although I think you could
6 probably recite it to me at this point rather than me give
7 it to you; but obviously all of these principles are very,
8 very important and sometimes when you hear them said than
9 something -- this trigger goes off; so in this case as in
10 every criminal case the defendant -- and again it's
11 Mr. Richardson in this case -- must be presumed by you to be
12 innocent.

13 Yes, he is here today because an indictment has
14 been filed against him but the indictment itself is not
15 proof of anything. An indictment is simply the means by
16 which a defendant is informed of the charges against him and
17 then brought into court to face those charges; so as he sits
18 there now he must be afforded the presumption of innocence.

19 It is up to the People, the District Attorney's
20 Office to convince all of you beyond a reasonable doubt that
21 the defendant is guilty. The burden in a criminal case is
22 solely on the prosecution. The defense has no burden to do
23 anything. Is there anyone who has any difficulty accepting
24 and following these fundamental principles? All right, no
25 one.

1 Under our system a defendant in a criminal case is
2 not obligated to take the witness stand; therefore, if
3 Mr. Richardson does not testify you may not draw any
4 inference unfavorable to him from that fact. Is there
5 anyone who would have any difficulty accepting or following
6 this principle?

7 Does anyone have any moral, intellectual, or
8 religious opinion or belief which might conflict with any of
9 these rules which might somehow slant your approach to the
10 case? No one.

11 Will everyone be able to weigh the testimony of a
12 police officer in the same way that you would weigh the
13 testimony of a civilian witness? And again no greater or
14 lesser weight can be given to the testimony simply because
15 it is coming from a police officer. You are all comfortable
16 with that instruction? Yes?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: All right, if after hearing all the
19 evidence in the case you find that you are convinced beyond
20 a reasonable doubt of the defendant's guilt, would you then
21 hesitate to vote guilty for any reason?

22 All right, then going the other way if you find
23 you do have a reasonable doubt after hearing the evidence,
24 would you hesitate for some reason to vote not guilty?

25 And my favorite question, is there anything else

1 anything that you would like to raise concerning your
2 qualification to serve on this case? All right, then I
3 thank all of you very much. Mr. Bogdanos.

4 MR. BOGDANOS: Thank you, your Honor.

5 Good afternoon all. May I take it that each of
6 you could hear both me and Mr. Klein throughout the course
7 of Thursday and Friday? I will try real hard not to repeat
8 anything, Mr. Kirkland, and let me start with you. Is there
9 anything about what you have heard from either me or
10 Mr. Klein that causes you to believe that you cannot be a
11 fair and impartial juror here?

12 PROSPECTIVE JUROR: No.

13 MR. BOGDANOS: So you believe as you sit here now
14 that you can listen to the evidence fairly, dispassionately,
15 assess that evidence, and determine whether or not beyond a
16 reasonable doubt this man's guilt right here of murder in
17 the second degree? Do you believe you could do that?

18 PROSPECTIVE JUROR: I do.

19 MR. BOGDANOS: Ma'am, you mentioned it's your
20 brother, brother-in-law?

21 PROSPECTIVE JUROR NO.2: Brother.

22 MR. BOGDANOS: Brother currently has an open case?

23 PROSPECTIVE JUROR: (Nod head affirmatively up and
24 down.)

25 MR. BOGDANOS: Sorry for that. Without going

1 into -- please don't go into the details or the facts of the
2 case. Do you have any sense from having talked to your
3 brother or other family members whether your brother is
4 being treated fairly, unfairly by either the prosecutor or
5 the judge or the defense attorney in his case?

6 PROSPECTIVE JUROR: I believe he is being treated
7 fairly.

8 MR. BOGDANOS: By all sides?

9 PROSPECTIVE JUROR: Correct.

10 MR. BOGDANOS: So he is being prosecuted by
11 someone who has my job somewhere else?

12 PROSPECTIVE JUROR: Yes.

13 MR. BOGDANOS: You are not going to hold that
14 against me?

15 PROSPECTIVE JUROR: No.

16 MR. BOGDANOS: He is being defended by someone who
17 has Mr. Klein's job? Also you are not going to hold that
18 against him.

19 PROSPECTIVE JUROR: No.

20 MR. BOGDANOS: The same thing with regard to his
21 honor, it is a separate case and fairly and dispassionately
22 judge this case?

23 PROSPECTIVE JUROR: Yes.

24 MR. BOGDANOS: Ms. Rodriguez, you mentioned you
25 are a case aide -- you were a case aide in what field?

1 PROSPECTIVE JUROR: I was working with people,
2 individuals who live with HIV, public assistant case
3 manager.

4 MR. BOGDANOS: Thank you very much. Ms. Romero,
5 you mentioned your brother is in the 33rd Precinct. If you
6 hear this took place within the 25th precinct, you will be
7 okay with that? I won't think that would overlap at all
8 with your brother's precinct. It is nearby upper Manhattan
9 but it is pretty far apart. You haven't heard any names
10 that you recognized?

11 PROSPECTIVE JUROR: I didn't. Only concern is I
12 do know people in a few of the places. I don't think the 25
13 but I just don't know.

14 MR. BOGDANOS: Ma'am, I take it that you already
15 told us that you heard both Mr. Klein and I and his Honor
16 throughout the course of the last day and a half, one of the
17 things I would ask you, do you understand that you are not
18 as a juror being asked to judge an individual, right? You
19 understand that? You are not being asked to judge
20 Mr. Richardson's character or personality or in the words of
21 Mr. Klein any other criminal activity and you understand
22 that?

23 PROSPECTIVE JUROR: Yes.

24 MR. BOGDANOS: Thank you. But you are being asked
25 to judge the evidence and you can do that?

1 PROSPECTIVE JUROR: Yeah.

2 MR. BOGDANOS: Ms. Rodriguez, No. 5, you mentioned
3 you work for the Board of Ed; but I didn't hear what you
4 said you did for the Board of Ed. I apologize.

5 PROSPECTIVE JUROR: I am a cook.

6 MR. BOGDANOS: At a school?

7 PROSPECTIVE JUROR: Yes.

8 MR. BOGDANOS: In Tribeca?

9 PROSPECTIVE JUROR: No.

10 MR. BOGDANOS: That's where you live. Got it. Do
11 you understand you heard Mr. Klein talk about how being a
12 juror is a challenging, difficult thing to do and you agree
13 with that?

14 PROSPECTIVE JUROR: Yes.

15 MR. BOGDANOS: And I take it you also understand
16 that your comfort level -- forgive me for being this candid;
17 this is what I do; this is how I am -- your comfort level
18 isn't an issue here? I never am going to ask you if you are
19 comfortable sitting as a juror? You could accept that?

20 PROSPECTIVE JUROR: Yes.

21 MR. BOGDANOS: You not going to ask me if I am
22 comfortable doing this job; right? It is your job and this
23 is my job?

24 PROSPECTIVE JUROR: Yes.

25 MR. BOGDANOS: You understand if you are

1 eventually seated as a juror, you are going to be asked a
2 question and the question is do you find Mark Richardson
3 guilty of the murder of a 69 year old woman? No where in
4 that question is it going to be asked do you find that easy
5 or hard or whether you are comfortable making that decision.
6 You understand those are the words of one of your other
7 fellow veneer persons? A nonissue, right? And you can
8 accept that?

9 PROSPECTIVE JUROR: Yes.

10 MR. BOGDANOS: You may well be uncomfortable. It
11 may be disagreeable because if selected as a juror, ma'am, I
12 am going to come back here in the name of the People of the
13 State of New York and also ask you to say the word guilty of
14 murder in the second degree; and I need to know that if the
15 evidence convinces you beyond a reasonable doubt, that you
16 will be able to discharge that duty. You will be able to do
17 just that? Is that okay, ma'am?

18 PROSPECTIVE JUROR: Yes.

19 MR. BOGDANOS: Ms. Kim, same question with a
20 twist. I assume you have in you're life made difficult or
21 weighty decisions; and you've seen people make difficult and
22 weighty decisions. You probably had bosses who have made
23 difficult and weighty decisions; have you not?

24 PROSPECTIVE JUROR: Yes.

25 MR. BOGDANOS: Have you also seen people who

1 avoided making difficult or have decisions?

2 PROSPECTIVE JUROR: (Nod head affirmatively up and
3 down.)

4 MR. BOGDANOS: Have you seen bosses who avoid
5 making difficult and Nod decisions?

6 PROSPECTIVE JUROR: (Nod head affirmatively up and
7 down.)

8 MR. BOGDANOS: Have you seen people behind their
9 lack of comfort or come up with all excuses for failing to
10 make weighty decision?

11 PROSPECTIVE JUROR: Yes.

12 MR. BOGDANOS: You have seen that?

13 PROSPECTIVE JUROR: Yes.

14 MR. BOGDANOS: I won't ask you what you think
15 about those people. It is probably the same thing I think
16 of those people; but do you understand that's not something
17 you can do here. In fact, if you are seated as a juror
18 during his honor's instructions, not my job -- two people
19 that doubtless do it well -- one of the instructions you may
20 hear is you may not find someone not guilty simply because
21 it's a disagreeable thing or uncomfortable thing to do; but
22 rather because the evidence has not proven to you beyond a
23 reasonable doubt that he is guilty; so I am asking you
24 directly will you discharge your duty? Will you do your
25 duty, whatever it is, based on the evidence not based on

1 your comfort level?

2 PROSPECTIVE JUROR: Yes.

3 MR. BOGDANOS: Yes, you will do that?

4 PROSPECTIVE JUROR: Yes.

5 MR. BOGDANOS: Everyone will do the exact same
6 thing?

7 PROSPECTIVE JUROR: Yes.

8 MR. BOGDANOS: I promise sitting as a juror in a
9 murder trial, it's disagreeable. I promise you. It's
10 uncomfortable; but will everyone put that discomfort aside
11 and judge this case on the evidence. Can each of you do
12 that?

13 PROSPECTIVE JUROR: Yes.

14 MR. BOGDANOS: Mr. Batista, please forgive me.
15 Two hard questions. I am so sorry for your loss for your
16 uncle, unsolved.

17 PROSPECTIVE JUROR: (Nod head affirmatively up and
18 down.)

19 MR. BOGDANOS: Meaning the police didn't catch the
20 guy and the prosecutor didn't prosecute the guy. You are
21 going to put that aside?

22 PROSPECTIVE JUROR: Yeah.

23 MR. BOGDANOS: And not hold it against anyone in
24 this case?

25 PROSPECTIVE JUROR: Yes.

1 MR. BOGDANOS: Not hold it against the people for
2 having failed to solve that case but also not hold it
3 against Mr. Richardson because he is charged with murder?
4 You will put that aside and give both sides a fair trial.
5 Will you do that?

6 PROSPECTIVE JUROR: It is no burden.

7 MR. BOGDANOS: Second disagreeable charge -- I
8 have to ask it -- you had a menacing charge against you. It
9 was dismissed?

10 PROSPECTIVE JUROR: Yes.

11 MR. BOGDANOS: Do you think you were treated
12 fairly or unfairly -- withdrawn. Was there an arrest
13 involved?

14 PROSPECTIVE JUROR: No, it was proven it was
15 fabricated.

16 MR. BOGDANOS: So you never had to be arrested?

17 PROSPECTIVE JUROR: No.

18 MR. BOGDANOS: And it was proven fabricated I take
19 it then fairly quickly?

20 PROSPECTIVE JUROR: Yeah.

21 MR. BOGDANOS: Were you treated fairly or unfairly
22 by the system, the entire system?

23 PROSPECTIVE JUROR: Yes.

24 MR. BOGDANOS: Which one fairly or unfairly?

25 PROSPECTIVE JUROR: Fairly.

1 MR. BOGDANOS: Thank you. You won't hold that
2 against anyone in this case?

3 PROSPECTIVE JUROR: No.

4 MR. BOGDANOS: Mr. Hay -- it is Hay?

5 PROSPECTIVE JUROR: Yes.

6 MR. BOGDANOS: Mr. Hay, how long have you lived in
7 New York?

8 PROSPECTIVE JUROR: Eight years.

9 MR. BOGDANOS: If you said it, I pardon.

10 PROSPECTIVE JUROR: No problem. I have been here
11 eight years.

12 MR. BOGDANOS: I am terrible with accents. Is it
13 Scottish?

14 PROSPECTIVE JUROR: Good guess.

15 MR. BOGDANOS: I know you know this but let me say
16 you recognize we have a different system here than in
17 Scotland?

18 PROSPECTIVE JUROR: I do.

19 MR. BOGDANOS: A whole different legal system?
20 You still have three verdicts in Scotland?

21 PROSPECTIVE JUROR: We do.

22 MR. BOGDANOS: We don't have that here.

23 PROSPECTIVE JUROR: I appreciate that.

24 MR. BOGDANOS: The question is simply going to be
25 guilty as in not is he a bad person, not that did he do

1 other criminal activity, not are you going to take him home
2 with you, not any of those things. The question is have the
3 People proven through the evidence beyond a reasonable doubt
4 as the term will be defined for you that the defendant is
5 guilty. That's the question?

6 PROSPECTIVE JUROR: Yep.

7 MR. BOGDANOS: Given another way of saying proven
8 or not, you can accept that?

9 PROSPECTIVE JUROR: Yes.

10 MR. BOGDANOS: Can everyone do just that? Any
11 challenging issues? Ms. Schwartz, it is so hard to hear in
12 this courtroom. Did you say you are a physician?

13 PROSPECTIVE JUROR: I also I have BS in Science
14 and went to Columbia University.

15 MR. BOGDANOS: Ma'am, there is going to be medical
16 testimony in this case from the Office of the Chief Medical
17 Examiner. It is my burden to prove cause of death amongst
18 other things through a pathologist, through a medical
19 doctor. I take it you will not allow your background as a
20 doctor to carry extra weight in the jury deliberation room?
21 You are just another juror, one of twelve, because you can
22 imagine how your fellow jurors might turn to you and say,
23 wait, what do you think about that. Give us your expert
24 opinion about the DNA or about the doctor or about this stab
25 wound, or about that strangulation or about the hyoid bone?

1 PROSPECTIVE JUROR: H-Y-O-I-D.

2 MR. BOGDANOS: I knew you would know. You won't
3 do that? Bring your experience, your education, your
4 knowledge of the world into the deliberation room but you
5 will be just another juror?

6 PROSPECTIVE JUROR: Exactly.

7 MR. BOGDANOS: Thank you. Mr. Apostolou, you said
8 there were two instances in which you or a family member had
9 been mugged?

10 PROSPECTIVE JUROR: Yes.

11 MR. BOGDANOS: You in Florence?

12 PROSPECTIVE JUROR: Right.

13 MR. BOGDANOS: And then your mother about 30 years
14 ago?

15 PROSPECTIVE JUROR: Correct.

16 MR. BOGDANOS: Obviously, I mean it is very easy
17 to tell from your whole body language and the way you
18 described it, you recognize it has nothing to do with this
19 case?

20 PROSPECTIVE JUROR: That's correct.

21 MR. BOGDANOS: People say mugging. A mugging is a
22 robbery. It's the common way of saying robbery; but that's
23 what the crime is, robbery?

24 PROSPECTIVE JUROR: Right.

25 MR. BOGDANOS: And your mother came home bruised?

1 PROSPECTIVE JUROR: Right.

2 MR. BOGDANOS: You understand that one of the
3 charges in this case -- two of the charges in this case that
4 the defendant faces is robbery charges and indeed the murder
5 is a murder committed during the course of a robbery. Those
6 are the allegations. You will put that, your prior
7 experience with robbery aside and give this defendant a fair
8 trial?

9 THE DEFENDANT: Defendant yes.

10 MR. BOGDANOS: By the way, the People a fair
11 trial?

12 PROSPECTIVE JUROR: Right.

13 MR. BOGDANOS: Thank you. Mr. Dawson, I am so
14 sorry for your mother-in-law's current condition. Is
15 this -- is her -- and forgive me for following up on this --
16 is this something that you might be needed to be called away
17 in the next three weeks or is it something your wife, I
18 mean, has a hand on and only you can answer it?

19 PROSPECTIVE JUROR: It has been ongoing. She is
20 in remission.

21 MR. BOGDANOS: Our prayers are with you.

22 Judge, you could probably come over here and do
23 this and doubtless do it better but you are -- this is so
24 weird -- if seated on this panel, you are a juror?

25 PROSPECTIVE JUROR: Yes, I am.

1 MR. BOGDANOS: You don't get to say, you know, the
2 DA he violated People versus Washington -- I made that up; I
3 am sure there is a People versus Washington -- and he
4 shouldn't have done that. I don't know why Judge Allen let
5 him get away with that. You are not going to do that?

6 PROSPECTIVE JUROR: I will not do that.

7 MR. BOGDANOS: Regardless of what you think and I
8 know you know all these things, knowing what you know about
9 the Criminal Justice System, knowing what you know about
10 everything taken together, do you believe you could be a
11 fair and impartial juror in this case?

12 PROSPECTIVE JUROR: Yes, I do.

13 MR. BOGDANOS: Thank you, Judge. You have someone
14 covering your calendar so there are no issues?

15 PROSPECTIVE JUROR: Well, um, actually I heard the
16 judge is not sitting this Friday. Friday is my calendar day
17 but we will handle it.

18 MR. BOGDANOS: Thank you, Judge. And Mr. Hermens,
19 finally, your dad is a retired prosecutor?

20 PROSPECTIVE JUROR: Yeah.

21 MR. BOGDANOS: He did it for a career?

22 PROSPECTIVE JUROR: Correct.

23 MR. BOGDANOS: Mr. Hermens, you must have heard
24 some war stories over the years?

25 PROSPECTIVE JUROR: A little bit.

1 MR. BOGDANOS: You would put all of that aside?

2 PROSPECTIVE JUROR: Absolutely.

3 MR. BOGDANOS: It is not in New York?

4 PROSPECTIVE JUROR: No in Eugene, Oregon.

5 MR. BOGDANOS: And so sorry about your brother's
6 case. Again you will put that aside and thank goodness it
7 was an attempted murder?

8 PROSPECTIVE JUROR: Absolutely.

9 MR. BOGDANOS: You understand the concern the
10 defense might legitimately have. This is a murder and your
11 brother was a victim of an attempted murder. You will put
12 it aside and you will promise both sides that you will --
13 and the Court -- that you will fairly and dispassionately
14 assess the evidence and the reliability of the witnesses and
15 credibility of all of the evidence in determining the
16 appropriate verdict? You will do that?

17 PROSPECTIVE JUROR: It will be no issue.

18 MR. BOGDANOS: Finally, ladies and gentlemen, you
19 have heard me say to the prior two panels you are not going
20 to ever hear in this case an eyewitness. No one is ever
21 going to come up in this courtroom and take that stand and
22 say I saw what happened. The law doesn't require it, but I
23 am asking you whether any of you think for a moment -- it is
24 a difficult concept -- think about it, are any of you going
25 it say oh, no, I don't care. You could have all the DNA, I

1 want fingerprints. You could have all the other stuff --
2 whatever the stuff is -- you could have all that other
3 stuff, I need an eyewitness. Does anyone think that because
4 now is the time to tell us, both sides?

5 PROSPECTIVE JUROR: No.

6 MR. BOGDANOS: Ladies and gentlemen, I thank you
7 all for your patience.

8 THE COURT: Thank you, Mr. Bogdanos. Mr. Klein.

9 MR. KLEIN: Thanks, Judge. Ms. Kim, you work for
10 the City of New York Building Management?

11 PROSPECTIVE JUROR: Construction and building
12 management.

13 MR. KLEIN: What does that mean? What do you
14 actually do?

15 PROSPECTIVE JUROR: I manage projects for building
16 renovations and also the other side is managing the
17 buildings so your HTHC systems and plumbing.

18 MR. KLEIN: That's what you do?

19 PROSPECTIVE JUROR: (Nod head affirmatively up and
20 down.)

21 MR. KLEIN: You heard the district attorney
22 mention in this case there is no eyewitness; but you are
23 going to hear DNA evidence and you are going to hear
24 fingerprint evidence. That makes you feel one way or the
25 other, there is no I.D. witness there is DNA there is

1 fingerprint; this is a strange case, weak case, anything
2 case?

3 PROSPECTIVE JUROR: No.

4 MR. KLEIN: You are going to hear about DNA,
5 fingerprint. Just say, okay, I will hear about it.

6 PROSPECTIVE JUROR: Okay.

7 MR. KLEIN: This is an eyewitness, no eyewitness
8 case. May be proven or not proven?

9 PROSPECTIVE JUROR: Yes.

10 MR. KLEIN: Doesn't change your opinion at all?

11 PROSPECTIVE JUROR: Not at all.

12 MR. KLEIN: The fact I have been talking about --
13 you are going to find out as the trial goes on he is an
14 unlikable guy. My client lied to the police. He lied a lot
15 as the investigation was going on. You know the case is
16 proven, you find him guilty?

17 PROSPECTIVE JUROR: Yes.

18 MR. KLEIN: Mr. Batista, in your case you
19 mentioned how actually they were able to prove -- you
20 thought you were going to be arrested maybe but they were
21 able to prove that the accusation was false, okay. I guess
22 somebody got up some way and proved your innocence; right?

23 PROSPECTIVE JUROR: Yes.

24 MR. KLEIN: Ms. Rodriguez No. 5, here one of the
25 things I keep telling the jury how in this case it is

1 unlikely I am going to get up and prove to you that my
2 client didn't do the crime, right? I am not going to put
3 him on the witness stand and call witnesses that prove to
4 you it's impossible he couldn't have done it; but you could
5 accept that it is not my burden to do that in the case;
6 right?

7 PROSPECTIVE JUROR: Yes.

8 MR. KLEIN: You are in the jury room and you say,
9 listen, the lawyer doesn't prove his client innocent.
10 That's not really what we have to do here. The question is
11 did the district attorney prove guilt?

12 PROSPECTIVE JUROR: Yes.

13 MR. KLEIN: If he doesn't prove beyond a
14 reasonable doubt, then you will vote not guilty; right?

15 PROSPECTIVE JUROR: Yes.

16 MR. KLEIN: Could you just tell me, you are a cook
17 for the Board of Education. That's what you do in a school?

18 PROSPECTIVE JUROR: (Nod head affirmatively up and
19 down.)

20 MR. KLEIN: Yes? Ms. Rodriguez, No. 3, you are a
21 case aide. What does that mean? Maybe I should know but I
22 don't.

23 PROSPECTIVE JUROR: I was working for a nonprofit
24 organization work on people HIV, just general data. Getting
25 Social Services helping them out. I was an assistant to a

1 case manager. Now I am unemployment.

2 MR. KLEIN: Perhaps --

3 PROSPECTIVE JUROR: I lost my employment. I have
4 been looking.

5 MR. KLEIN: Any problems with any of the concepts
6 that have when brought up?

7 PROSPECTIVE JUROR: No.

8 MR. KLEIN: If you are on the jury, you will give
9 the other jurors your own opinion, right?

10 PROSPECTIVE JUROR: My opinion.

11 MR. KLEIN: Your own opinion right, just yours?

12 PROSPECTIVE JUROR: Yes.

13 MR. KLEIN: You will listen to all the evidence,
14 right?

15 PROSPECTIVE JUROR: Based on the evidence.

16 MR. KLEIN: And talk to your fellow jurors?

17 PROSPECTIVE JUROR: Yeah.

18 MR. KLEIN: And then decide the way you think
19 about the case?

20 PROSPECTIVE JUROR: Yes.

21 MR. KLEIN: Ms. Romero, no problem that in this
22 case it is very unlikely that the defendant is going to take
23 the witness stand?

24 PROSPECTIVE JUROR: No.

25 MR. KLEIN: Some people say no problem because do

1 I want -- I don't want to hear him; he is a murderer, who
2 knows; who wants to hear from a murderer. You could think
3 whatever you want. You have to tell us if that's the way
4 you think. You have to tell us, the judge, no, if you know
5 the guy doesn't testify, the lawyer doesn't put him on the
6 witness stand; like the guy said, nonissue; right? You
7 won't think in any way, no, he must have done it; otherwise,
8 he would testify, right?

9 PROSPECTIVE JUROR: No.

10 MR. KLEIN: Have you ever been accused of
11 something? You said your peace and you said, hey, I didn't
12 do it.

13 PROSPECTIVE JUROR: (Nod head affirmatively up and
14 down.)

15 MR. KLEIN: In a courtroom it doesn't really work.
16 The defendant has obviously plead not guilty. His position
17 is he didn't do it, right; but the fact he doesn't get up on
18 the witness stand and say to all of you, hey, it wasn't me;
19 I know they are accusing me but it is not me; that's
20 irrelevant, okay? You won't hold it against him in any way?

21 PROSPECTIVE JUROR: No.

22 MR. KLEIN: All right. Ms. Pasterick, same
23 question to you at the end of the case you go in the jury
24 room and you say a lot of stuff was answered. I got the
25 answers to a lot of questions, and I've seen DNA evidence,

1 and I have seen fingerprints, and I heard what people have
2 to say but I have some fundamental doubts about whether or
3 not the defendant is guilty. I have reasonable doubts about
4 it. Would you acquit him?

5 PROSPECTIVE JUROR: (Nod head affirmatively up and
6 down.)

7 MR. KLEIN: Okay, regardless of your feeling at
8 that point, I don't know if the defense lawyer didn't prove
9 he is innocent then maybe we are letting a guy go who may
10 have done the crime; right? Would you still vote not guilty
11 in that situation?

12 PROSPECTIVE JUROR: If I didn't believe beyond a
13 reasonable doubt that he was guilty, I would not vote
14 guilty.

15 MR. KLEIN: Regardless of the fact that you might
16 still think to yourself I don't know; maybe he did do it.
17 Still vote for not guilty; right?

18 PROSPECTIVE JUROR: It would be difficult but yes.

19 MR. KLEIN: You would do it? Mr. Kirkland, the
20 same question to you?

21 PROSPECTIVE JUROR: Okay. I can do that.

22 MR. KLEIN: At the end of the case you say I don't
23 know. I heard a bunch of evidence. I understand why he is
24 arrested. I understand why he is sitting there regardless
25 of presumption of innocence. Oh, yeah there is some

1 evidence that points to him, but at the end of the case you
2 say you know, I am not sure. According to the Judge's
3 instructions you say it is not proven to me beyond a
4 reasonable doubt, you know I am not going to convict the guy
5 unless I am sure; right? Can you follow that?

6 PROSPECTIVE JUROR: I have never heard the beyond
7 a reasonable doubt. I assume based on the instruction, I
8 could follow the instructions and make a decision.

9 MR. KLEIN: You never sat as a juror?

10 PROSPECTIVE JUROR: I never sat as a juror. You
11 asked a hypothetical. It is an interesting thought.

12 MR. KLEIN: Well, it's one, you know -- I raise it
13 because it is one that very likely is going to happen here.
14 I told you I am not -- at the end of the prosecution's case
15 I am not going to prove the defendant couldn't have done it;
16 right?

17 PROSPECTIVE JUROR: Right.

18 MR. KLEIN: The question you are really going to
19 have to ponder as the gentleman from Scotland said is it
20 proven or not proven. Are we convinced beyond a reasonable
21 doubt or not? You can do that; right?

22 PROSPECTIVE JUROR: Right.

23 MR. KLEIN: You could hesitate as Ms. Pasterick
24 said? You could hesitate and say I don't want to vote not
25 guilty, you know, unless I really know he didn't do it, but

1 that's the situation you may find yourself in it? You will
2 deal with it?

3 PROSPECTIVE JUROR: Yes.

4 MR. KLEIN: Mr. Apostolou, any problem with that?

5 PROSPECTIVE JUROR: No, not at all.

6 MR. KLEIN: In case you decide, I have seen the
7 DNA; I have seen the fingerprints; telephone records
8 anything you get in the case you say, okay, I see it's
9 possible. He could have done it. That stuff all convinces
10 you. You say he could have done it. It could be him. He
11 could be one of the guys; but you say I am not sure;
12 convinced beyond a reasonable doubt he is really one of
13 them, the appropriate people to convict and then you
14 wouldn't hesitate to acquit him, right?

15 PROSPECTIVE JUROR: Right.

16 MR. KLEIN: You understand there is no way if you
17 acquit someone, you are not like giving them a pat on the
18 back and saying you are the greatest guy; you are innocent;
19 I love you. You are saying this is not a case where you are
20 not sure. Okay. Thank you.

21 THE COURT: Thank you, Mr. Klein. The time has
22 come for the attorneys to make some selections. I ask all
23 of you to wait outside before they do this. Please do not
24 discuss the case. We will get you back in here by 4:25.

25 (Prospective Jurors exited the courtroom.)

Voir Dire - Selection

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1 (Short recess.)

2 THE COURT: All right, folks. Are we ready to go?

3 MR. BOGDANOS: Yes, Judge.

4 MR. KLEIN: Yeah.

5 THE COURT: Are you ready, Jeanette?

6 THE COURT CLERK: Yes, your Honor.

7 THE COURT: Back on the record, we have eleven
8 selected jurors so we will do these jurors one at a time
9 starting with Mr. Kirkland. Challenges for cause?

10 MR. BOGDANOS: No.

11 MR. KLEIN: No.

12 THE COURT: Peremptories?

13 MR. BOGDANOS: No.

14 MR. KLEIN: Yes.

15 THE COURT: Pasterick, challenge for cause?

16 MR. BOGDANOS: No.

17 MR. KLEIN: No.

18 THE COURT: Peremptories?

19 MR. BOGDANOS: No.

20 MR. KLEIN: Yes.

21 THE COURT: Rodriguez No. 3, challenges for cause?

22 MR. BOGDANOS: No.

23 MR. KLEIN: No.

24 THE COURT: Peremptories?

25 MR. BOGDANOS: Yes.

Voir Dire - Selection

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1 THE COURT: Romero, challenges for cause?
2 MR. BOGDANOS: No.
3 MR. KLEIN: No.
4 THE COURT: Peremptories?
5 MR. BOGDANOS: No.
6 MR. KLEIN: Yes.
7 THE COURT: Rodriguez No. 2, challenges for cause?
8 MR. BOGDANOS: No.
9 MR. KLEIN: No.
10 THE COURT: Peremptories?
11 MR. BOGDANOS: Yes.
12 THE COURT: Ms. Kim, challenges for cause?
13 MR. BOGDANOS: No.
14 MR. KLEIN: No.
15 THE COURT: Peremptories?
16 MR. BOGDANOS: No.
17 MR. KLEIN: No peremptories.
18 THE COURT: Thank you. Ms. Kim becomes juror
19 No. 12. You know with the alternate seats each side has two
20 peremptories, Mr. Batista, to be alternate No. 1 challenges
21 for cause?
22 MR. BOGDANOS: No.
23 MR. KLEIN: No.
24 THE COURT: Peremptories?
25 MR. BOGDANOS: Yes.

Voir Dire - Selection

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1 THE COURT: Mr. Hay, challenges for cause?
2 MR. BOGDANOS: No.
3 MR. KLEIN: No.
4 THE COURT: Peremptories?
5 MR. BOGDANOS: No.
6 MR. KLEIN: Yes.
7 THE COURT: Ms. --
8 MR. KLEIN: Yes.
9 THE COURT: Ms. Schwartz, challenges for cause?
10 MR. BOGDANOS: No.
11 MR. KLEIN: No.
12 THE COURT: Peremptories?
13 MR. BOGDANOS: Yes.
14 THE COURT: Mr. Apostolou, challenges for cause?
15 MR. BOGDANOS: No.
16 MR. KLEIN: No.
17 THE COURT: Do you have a peremptory, Mr. Klein?
18 MR. KLEIN: No.
19 THE COURT: Mr. Dawson for alternate seat No. 2,
20 challenges for cause?
21 MR. BOGDANOS: No.
22 MR. KLEIN: No.
23 THE COURT: Peremptories?
24 MR. BOGDANOS: No.
25 MR. KLEIN: No peremptory.

1 THE COURT: Thank you. Mr. Dawson becomes the
2 alternate No. 2. Judge Lieb for alternate seat No. 3,
3 challenges for cause.

4 MR. BOGDANOS: No.

5 MR. KLEIN: No.

6 THE COURT: Now I promise I will never divulge the
7 result of the next question. Peremptories challenges for
8 Judge Lieb?

9 MR. BOGDANOS: No.

10 MR. KLEIN: Yes.

11 THE COURT: Mr. Hermens, No. 13, he is our last
12 juror in this group. Challenges for cause?

13 MR. BOGDANOS: No.

14 MR. KLEIN: No.

15 THE COURT: Peremptories?

16 MR. BOGDANOS: No.

17 MR. KLEIN: Yes.

18 THE COURT: Does either side want to volunteer
19 somebody to become alternate No. 3? I will go with the two;
20 but I think we would be better off with three. You can
21 discuss this among yourself if you want and save the record.

22 (Off-the-record discussion.)

23 THE COURT: Back on the record, both sides ready
24 for this group?

25 MR. KLEIN: Yes.

1 THE COURT: May we have all the jurors, please.
2 (Juror entered the courtroom.)

3 THE COURT CLERK: Case on trial continued. The
4 People of the State of New York against Mark Richardson.
5 Both sides stipulate that all jurors are present?

6 MR. KLEIN: Yes.

7 MR. BOGDANOS: Yes.

8 THE COURT: Ladies and gentlemen, this time three
9 of you have been selected. As you know going in, there were
10 not that many places available so no one should feel
11 disappointed whatsoever. Again everyone participated fully
12 and we do appreciate that. We thank you very much for doing
13 so. I will leave it at that.

14 I should also add that we have this new rule. We
15 have to get out of here by 4:30 so we just barely made it
16 under the buzzer, and you were a part of that; so thank you
17 very much and now for the results please, Jeanette.

18 THE COURT CLERK: Would the following jurors
19 please remain seated, Lana Kim, Charles Apostolou, and
20 Keith Dawson. The rest of you are excused with the thanks
21 of the Court. You know you may return back to the jury room
22 tomorrow morning. I think they are going home. I am sure
23 you are going home actually.

24 (Prospective jurors exited the courtroom.)

25 THE COURT: Are the remaining jurors satisfactory

1 to the People?

2 MR. BOGDANOS: Yes.

3 THE COURT: To the defendant.

4 MR. KLEIN: Yes.

5 THE COURT CLERK: Jurors, please stand and raise
6 your right hands.

7 (Jurors were duly sworn and/or affirmed.)

8 JURORS: I do.

9 THE COURT: Thank you. You may be seated. Again
10 we are going to ask all of you to come back tomorrow morning
11 at the same time 11:00 a.m. We now have completed the jury
12 selection process. I always love to say that so we could
13 move on to the next phase of the trial. We will start at
14 11:00 tomorrow morning; so please do not discuss the case
15 with anyone between now and then; and one of the officers
16 will ask you a couple of questions on your way out. Thank
17 you very much.

18 (Jurors exited the courtroom.)

19 MR. BOGDANOS: What are we doing on Mr. Klein's
20 motion? This is still outstanding.

21 THE COURT: Unfortunately --

22 MR. BOGDANOS: I get it.

23 THE COURT: We are out of time.

24 MR. BOGDANOS: I got it.

25 THE COURT: We are working on it. We will hear

1 from you in the morning; but we are also working on it.

2 MR. BOGDANOS: Judge, I want to be clear. You
3 can't work on it. Listen, I got this Thursday. We have
4 been on trial. You can't work on it until I explain what I
5 believe to be unintentional but certainly factual
6 inaccuracies in the motion. I mean there are issues here
7 that I think only will resolve themselves.

8 THE COURT: Be assured I have not rendered -- I
9 have not reached any sort of decision.

10 MR. BOGDANOS: Not even leaning.

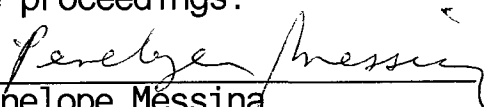
11 THE COURT: I am not even leaning. Not even
12 working.

13 MR. BOGDANOS: That's fine.

14 (Trial adjourned to September 13, 2011.)

15 oOo

16 I hereby certify the foregoing to be a true and
17 accurate transcript of the original stenographic record
18 in the above proceedings.

19 
20 Penelope Messina
21 Senior Court Reporter
22
23
24
25

Proceedings

1

1 SUPREME COURT OF THE STATE OF NEW YORK.

2 COUNTY OF NEW YORK: CRIMINAL TERM: PART 45

3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK : Indictment

5 : 3534/08

6 -against- : Charge:

7 MARK RICHARDSON, : MURD 2

8 Defendant. : TRIAL

9 -----X

10 111 Centre Street
11 New York, New York
12 September 13, 2011,

13 B E F O R E :

14 HONORABLE BRUCE ALLEN, Justice

15 A P P E A R A N C E S :

16 For the People:

17 CYRUS VANCE, ESQ.
18 Assistant District Attorney
19 New York County
BY: MATTHEW BOGDANOS, ESQ.
Assistant District Attorney

20 For the Defendant:

21 LEGAL AID SOCIETY
22 THOMAS KLEIN, ESQ.
and SARAH, LEGLER, ESQ. For Defendant Richardson

23

24 PENELOPE MESSINA, RPR
25 Senior Court Reporter

1 THE COURT CLERK: Case on trial continued. The
2 People of the State of New York against Mark Richardson.
3 The defendant, his attorney, and the assistant district
4 attorney are present. The jury is not present at this time.

5 THE COURT: Thank you. Mr. Bogdanos.

6 MR. BOGDANOS: Yes, your Honor, we can move right
7 into the motion.

8 THE COURT: Any preliminary matters that you would
9 like to raise at this time.

10 MR. BOGDANOS: Yes, Mr. Klein had yesterday asked
11 the Court to rule prior to the opening on the outstanding
12 motion and so what I would like to do, your Honor, is I
13 mentioned yesterday is -- and it would be helpful. I don't
14 know if your Honor has a copy. I want to go paragraph by
15 paragraph because I actually believe that some of the items
16 that Mr. Klein is requesting are actually based on in some
17 occasions misunderstandings of what did and did not take
18 place and in some case speculation about what is and is not
19 possible, what we do and do not have; so I would like to
20 walk through that.

21 And finally, your Honor, in many cases throughout
22 the course of the defense motion, the defense says the
23 witness says such and such without saying the rest of the
24 statement and without looking at the context of many of
25 these statements. It's impossible for your Honor to rule

1 fairly, so on each occasion where the defense complains
2 about late disclosure of a D.D.5, a police report, I am
3 going to ask the Court to actually receive the D.D.5 in
4 Evidence for the purposes of this discussion, and I have
5 already notified Mr. Klein of the numbers of each D.D.5
6 number I am going to be so requesting of your Honor; so if
7 we could turn to the defense, the first claim in the
8 defense. It's in paragraph nine and I also want to be
9 abundantly clear -- I am in no way as I walk through the
10 motion when I highlight what I believe are inaccuracies or
11 incompleteness -- I am no way disparaging the motion or the
12 defense in any, way, shape or form. I am simply stating
13 facts as they really are on many occasions.

14 Paragraph nine through fourteen the defense makes
15 a single claim. The claim is that they did not receive a
16 D.D.5 of Anthony Hall and that's numbered D.D.5 I call it
17 32A because it falls between 32 and 33, in which
18 Anthony Hall during his first interview claims that he was
19 -- had run into an individual named Sylvester on Saturday;
20 and Sylvester said that he had seen Helen Abbott earlier
21 that day.

22 The point of the argument on behalf of the defense
23 is that means Helen Abbott is still alive on Saturday. If
24 Helen Abbott is still alive on Saturday so, therefore,
25 Mr. Richardson already left the building on Friday.

1 Couldn't have done it. The problem with that argument is
2 first it selects out a single sentence in an entire D.D.5;
3 and I am going to offer that to your Honor in a second in a
4 moment, but more damaging it omits all of Anthony Hall who
5 the People do believe is -- is probably the other person in
6 the apartment with the defendant during the murder.

7 There isn't enough evidence at this point to
8 arrest him but it omits all the other statements of
9 Anthony Hall in which he admits that he lied in the earlier
10 statement. In D.D.5 121 and in D.D.5 218 Mr. Hall admits
11 when he was talking about Saturday, it wasn't really
12 Saturday. First he changes it to Friday. Then he changes
13 it to Thursday; so, in fact, if you would just to rule on
14 the defense motion and nothing else, your Honor would be
15 unintentionally I am sure misled into thinking Anthony Hall
16 said something that he didn't; and for that I am going to
17 offer to the Court those three D.D.5's in their entirety;
18 that is, what we are calling 32A -- what I am calling 32A,
19 121, and 218 in which your Honor can see that Anthony Hall
20 completely repudiates his earlier statement about having
21 anything to do with Saturday. In fact, it's all about
22 Thursday and Friday.

23 I don't know how your Honor wants to move. Shall
24 I --

25 MR. KLEIN: Why don't we address this point? Why

1 don't we address this point because if it's going to go on
2 in this tenure, then we should be clear about something.

3 THE COURT: Point by point.

4 MR. BOGDANOS: Okay.

5 MR. KLEIN: This is the exact point that was
6 raised by the prior district attorney on a similar point,
7 which is the information that they didn't disclose to the
8 defense while in itself is perhaps Brady material really
9 isn't valuable Brady material because it was shown to be
10 unreliable because in other D.D.5's Anthony Hall says what I
11 was saying before was gobbledygook and what I am saying now
12 is true; and what I am saying now isn't true and it's the
13 prosecution's position -- though I am not sure it is the
14 position of the New York County District Attorney's Office
15 in general -- that if they can show that material,
16 exculpatory material is unreliable in some fashion in their
17 view, then there wasn't a necessity to turn it over at the
18 time that it was created so that the defense could do its
19 own investigation.

20 MR. BOGDANOS: That's absolutely not the argument.
21 I am sorry. If Mr. Klein had allowed me to --

22 THE COURT: Mr. Bogdanos.

23 MR. BOGDANOS: -- had allowed to me to finish my
24 argument.

25 THE COURT: Let him finish. You could get back.

Colloquy

6

1 MR. BOGDANOS: In other words, I could finish my
2 argument after he interrupts. You got it.

3 THE COURT: Go ahead.

4 MR. KLEIN: And I think that's not what the Brady
5 case law -- if a witness says something that is helpful to
6 the defense especially on a critical point such as there is
7 another witness who you all should talk to because it
8 supports the theory that the defendant couldn't have killed
9 the individual because the person was alive on the twelfth
10 and seen on the twelfth, then it has to be turned over.

11 The District Attorney's Office may at some later
12 occasion talk to the individual himself Mr. Sylvester and
13 get Mr. Sylvester to say what Anthony Hall is saying isn't
14 true or the district attorney may at this later point may
15 speak to Anthony Hall and Anthony Hall may repudiate the
16 information that he gave. The point of Brady is though when
17 that information came into the possession of the police
18 and/or the District Attorney's Office at that point it had
19 to be given to us so that we can do our own investigation.

20 For example, speak to Sylvester at that time back
21 then when the information came in and ask him hey,
22 Sylvester -- wherever you are -- where we weren't able to
23 find him at that point and say did you see the individual on
24 the twelfth. It doesn't matter that Mr. Hall later says
25 everything I said was a lie. It's that it was an

1 investigative lead that would have been helpful to the
2 defense that wasn't provided to us.

3 MR. BOGDANOS: That actually wasn't my argument.
4 What I tried to say before your Honor allowed the
5 interruption is it is not the People's position that we can
6 pick and choose based on the relevance of the material.
7 That is not -- and it's not the position, well, this must
8 not be -- first of all it is the People's position this
9 isn't Brady. I am going to explain why it isn't Brady but
10 it is not the People's position -- and not being put to
11 saying something I did not -- it is not the People's
12 position this is not Brady because Mr. Hall later repudiated
13 it. This is the People's position. It is not Brady for two
14 other reasons; not the reasons that the defense would like
15 me to argue.

16 First, Mr. Hall indicated he wasn't talking about
17 Saturday. He was talking about Friday and it was a mistake,
18 and that's what the D.D.5 -- if you see there is crossed out
19 in the D.D.5 with regard to the date.

20 Second when the detective actually went to find a
21 Sylvester when this took place and there was none that they
22 could find, so that for these reasons it's the People's
23 position that when a witness makes something up and there is
24 no good faith basis whatsoever it has no basis in reality or
25 fact.

1 Not only is it not Brady but even assuming that it
2 is there is no remedy for it in this particular case so come
3 back to the original position it's not Brady. It is not
4 Brady for these reasons; however, had the defense gotten
5 that earlier, they would have found out the same thing
6 Mr. Hall changed the dates inadvertently. He was drunk.
7 Whatever his reasons are, they are listed in his interviews.
8 There is no Sylvester, at least no Sylvester the detectives
9 could find.

10 I would like to move onto the second --

11 MR. KLEIN: Could I?

12 MR. BOGDANOS: I am done on that argument on
13 Mr. Hall and Sylvester.

14 THE COURT: Mr. Klein.

15 MR. KLEIN: First of all I would say as soon as we
16 got that -- and I think we wrote this in our motion; if we
17 didn't I will tell you -- as soon as we got this, we sent
18 investigators up to the building to speak to grounds people.
19 It appeared there is a Sylvester who works there although it
20 appears in some very casual manner we were unable to verify
21 he was actually employed there. Was he a subcontractor like
22 someone who works on the grounds, employs him to do some
23 work there? That's as far as we could get but that there is
24 no such person as a Sylvester. We found out contradictory
25 information when we got this, of course, some three years

1 too late.

2 As for it's not Brady because he was talking about
3 Friday, that's their position. That's the Prosecution's
4 position that he was talking about Friday. It's our
5 position that, in fact, he was talking about Saturday
6 because the D.D.5 itself has a cross out by Dt. Dimuro,
7 which indicates that it wasn't Friday that was being talked
8 about but it was Saturday that was being talked about; and
9 that's why we think it's Brady material that had to be given
10 to us.

11 We think that the defendant was damaged in this
12 manner and we are asking as a remedy -- you know, we are
13 asking that the information be put in front of the jury,
14 that the jury be told that Hall stated that there was an
15 individual named Sylvester who indicated that he had seen
16 the victim alive on Saturday.

17 MR. BOGDANOS: But without -- so in other words
18 one sentence in pages and pages of interviews so you are
19 saying the defense is suggesting that one selective out of a
20 context statement --

21 THE COURT: Go on to the next item.

22 MR. BOGDANOS: We could go with dueling D.D.5's if
23 that's what the defense wants. I will put in three D.D.5's
24 of Mr. Hall's statement if Mr. Richardson was in the
25 apartment. We will move on next.

1 The next argument is with regard to Michael Key
2 and that's paragraph fifteen and sixteen. The argument is
3 Michael Key was a jailhouse informant who had contacted
4 through his attorney -- it is not the argument these are the
5 facts -- had contacted the District Attorney's Office;
6 indicated that he had information about the homicide. The
7 defense claims in the -- on page five of their motion that
8 Key told detectives that Hall had confessed to another
9 individual that Hall went to Abbott's apartment.

10 Actually that's not true. That's -- again it's a
11 select -- selection actually of a partial sentence. What
12 Mr. Key really said is Mr. Key heard -- I am going to quote
13 street talk about the murder from Wagner residents because
14 Mr. Key was incarcerated and this talk indicates that
15 Helen's assailant took her from her kitchen into the back;
16 and then Mr. Key goes on to say that according to Steve and
17 his friend Stanley Rowson R-O-W-S-O-N; Desiree and
18 Anthony Hall set up Helen to be robbed and that the robbery
19 had gone bad.

20 Apparently Hall had gone with someone to Helen's
21 apartment to rob her but when things got out of hand,
22 Anthony ran out. That's actually exactly the People's
23 theory of the case by the way that Mark Richardson and
24 Anthony Hall left Desire's Allen apartment. Decided at one
25 point to rob Helen Abbott and Anthony Hall ran out while

1 Mark Richardson finished the job.

2 So if you didn't have -- and I am going to ask
3 that the Court have for the record D.D.5 212 -- if I could
4 hand that up, Judge.

5 D.D.5 215 if you didn't have the entire statement
6 of Michael Key you might otherwise believe that some was
7 somehow exculpatory. In fact it is both by my count
8 quadruple hearsay, right? Key says he heard from Steve and
9 Stanley who heard word on the street who heard that Desiree
10 and Anthony Hall set up a robbery that Hall did with someone
11 else.

12 I think that's four layers of hearsay but, in
13 fact, on closer inspection the statement is consistent with
14 the People's position not in anyway exculpatory to the
15 defense. Then paragraph 17 still on Michael Key so we are
16 not -- once I finish Michael Key, I will indicate and then
17 Mr. Klein can respond. Paragraph 17, the defense motion
18 says, defense learned for the first time of several other
19 individuals connected to this case, Frog, Red Man and
20 Matt Helm who Key had discussed; and then the defense argues
21 that had they been -- that material been turned over sooner,
22 they could have -- let me quote it, "As a direct result of
23 the prosecution's belated disclosure of the very existence
24 of Key they were not able to find the witnesses."

25 Well actually as your Honor can see from D.D.5 212

1 Mr. Key's entire interview -- at the time Mr. Key gave that
2 interview one of them was already dead. Had been dead for
3 years so he was already dead but yet the defense is claiming
4 if they had the information, they could have found him.
5 Really?

6 Once again not having all the facts makes it
7 difficult if not impossible for this Court to rule fairly.
8 It was Red who had died two years before the interview.
9 Again if you read the entire interview you will see that it
10 is multiple layers of hearsay just like earlier and if
11 Mr. -- if Mr. Klein, the defense is suggesting they would
12 like that entire D.D.5 to come in, then there are other
13 D.D.5's that indicate Anthony Hall did, in fact, go -- the
14 street talk was that Anthony Hall did, in fact, go with
15 another older black male. That's the other street talk
16 that's indicated in Michael Key's D.D.5; and others.

17 It should also be pointed out and defense I
18 believe -- well, I do know -- knows this because it is
19 actually in the notes -- the two individuals -- it's in the
20 detective notes that were turned over to the defense. The
21 two individuals that are mentioned by Michael Key is
22 actually having been the source of the street talk, were
23 both reached by the detectives; and on both occasions both
24 of them denied any knowledge of the murder or having told
25 Michael Key anything. I understand that isn't dispositive.

1 I am just putting all of that on the record so the record is
2 clear about the lack of exculpatory value of this particular
3 evidence; and that's it with regard to the argument with
4 Mr. Key.

5 THE COURT: Thank you.

6 MR. KLEIN: Judge, since Mr. Bogdanos thinks it's
7 important to put everything in context and that we at some
8 point perhaps inadvertently only put in one line and then
9 didn't put in other lines that would perhaps put it in
10 context, then I assume it was just inadvertent slip by the
11 district attorney when he was just reading this to your
12 Honor that he stopped when he said -- and if you read the
13 entire D.D.5, you see it says apparently Hall had gone out
14 with someone to Helen's apartment to rob her; but when
15 things got out of hand, Anthony ran out and then he said
16 that is exactly their position on the case; but the next
17 lines are actually the lines we thought and I believe we
18 spoke Judge Carruthers about how critical we thought they
19 were when Ms. Irick was on the case, that is the lines he
20 adds that it is Hall and Desire's MO to set people up to rob
21 them; and I think that was the part that we felt, it was a
22 helpful lead for us.

23 Mr. Bogdanos seems to -- well he does whatever he
24 does -- but there is an argument made by the District
25 Attorney's Office here that this is four levels of hearsay

1 and, therefore, wouldn't be admissible in court, but we are
2 not talking about when we deal with Brady litigation about
3 whether the information that was in the report is in itself
4 admissible. We are talking about whether or not
5 investigative leads were given to the defendant that may
6 have led to admissible evidence. That's the problem.

7 That's the quandary and the difficulty that the
8 Court is putting in that. We are aware of that. The Court
9 has to sit there and say, okay, these other individuals said
10 that Key was full of gobbledygook but it appears Key knew
11 something about what was going on there and it would have
12 been helpful for the single minded defense lawyer to have
13 this information and be able to speak to Key and find out
14 what -- why he was saying, for example, that it was this
15 other guy Hall and Desiree, this girl who you know, her name
16 kind of drifts around the case -- why they had this MO to
17 set people up and rob them. That's my argument with regard
18 to that.

19 THE COURT: Thank you.

20 MR. BOGDANOS: Moving onto paragraphs 20 and 21,
21 there is an argument by the defense about a Barbara -- I am
22 sorry I skipped 18 and 19 because it summarizes then -- each
23 of those individuals are summarized and covered later -- 20
24 and 21 defense argues that there is an individual named
25 Barbara who spoke to a CI, CI Edwin Santiago and this is

1 D.D.5 53. It's in the Defense 58. It is just a typo. It
2 is 53 so I will offer 53 to the Court at this time as well.

3 (Hanging.)

4 MR. BOGDANOS: Sidney Gotler is an individual,
5 your Honor, who had had a prior association with Ms. Abbott
6 and who is dead. Who has died unrelated to this case.
7 Unrelated to anything. Just natural causes so -- and so
8 Mr. Gotler is gone; so the argument appears to be that
9 Edwin Santiago told the police that Barbara told him that
10 Sidney Gotler had lied about being in the apartment on
11 Saturday night.

12 In fact, it's slightly more involved than that.
13 What Sidney -- what this CI said Barbara said Santiago -- I
14 am sorry -- that Gotler said -- and I am sorry; I am still
15 counting four layers of hearsay -- is that he had lied to
16 the police and didn't look around the apartment and left
17 after he smoked. That's a quote. That's what he said in
18 the D.D.5 and I would urge, your Honor, to go through the
19 entire D.D.5 and you will see that there is nothing in that
20 statement that is in anyway exculpatory.

21 I should also put on the record that Mr. Santiago
22 refused to tell the detectives who this Barbara was whether
23 that was her real name or her street name or just a name he
24 made up; and now the police or the district attorney know
25 who this Barbara is or ever knew who this Barbara was; so I

1 am not sure -- with regard to this complaint, I am not sure
2 what the remedy would be other than dueling D.D.5's of a
3 dead person who may or may not have been in the apartment
4 after she was murdered and may or may not have smoked crack
5 and may or may not have looked around the apartment.

6 I do know what that does other than distract the
7 jury with irrelevant matters and I don't even know how it
8 gets into Evidence other than through the vehicle of dueling
9 D.D.5's, particularly where we don't even know the
10 individual who reported this Barbara -- let's pretend that's
11 her real name. We don't know who that person is so I am not
12 exactly sure how that does anything for the defense or for
13 the trial. That's it.

14 THE COURT: I take it he died before this document
15 was turned over?

16 MR. BOGDANOS: Did you have this before I gave it
17 to you? I don't --

18 THE COURT: They say the 19. They got this on
19 April 21, 2011.

20 MR. BOGDANOS: Before they got this particular
21 document -- yeah, I think -- yes, the answer they got the --
22 defense, just to be more precise, the defense got this
23 document after he died but they got plenty of other
24 documents identifying Sidney Gotler and interviews and DNA
25 long before. Sidney Gotler was not a surprise. They knew

1 his name, who he was and what his involvement in the case
2 was before he died.

3 THE COURT: Thank you. Mr. Klein.

4 MR. KLEIN: Just I think actually dueling D.D.5's
5 here as it is called by the district attorney would not be
6 an inappropriate remedy. I should say it's always been the
7 district attorney's position in this matter. It certainly
8 was the detectives' position that Sidney Gotler -- he wasn't
9 lying about having gone to the apartment on the evening of
10 the twelfth in the morning of the thirteenth.

11 In fact there is great corroboration about that.
12 He is identified on the video by the family of the victim,
13 by the detectives. He is clearly seen leaving also the
14 early morning hours of the eleventh. He is there for about
15 forty-five minutes. What it appears he lies about is his
16 activities in there. It is not that he says in one, yeah, I
17 did go to Barbara and then says, no, I didn't go. It
18 appears that he says police had me in for an interview.
19 They think I killed her. I told them what I was doing in
20 there. That's not really true. I did other things. I told
21 them I didn't know about them being dead. I didn't know
22 about her being dead; so it's important not only because he
23 may, in fact, be the individual who killed the victim. It
24 also goes to obviously to the integrity of the crime scene
25 itself as to whether other people were there in between the

1 time that the district attorney deposes the defendant and
2 others killed her on the eleventh and when she is actually
3 discovered by family members on the afternoon of the
4 thirteenth.

5 THE COURT: Thank you.

6 MR. BOGDANOS: Moving to paragraph 22, your Honor,
7 that's concerning Tyrell Whittaker. Tyrell Whittaker is a
8 street name of Smiley is a drug dealer. Now it appeared to
9 have been Helen Abbott's drug dealer. Anthony Hall's drug
10 dealer. Desiree Allen and Mark Richradson's. Defense
11 argues that Mr. Whittaker was present in the apartment
12 Friday night to deliver drugs. That may or may not be true
13 but that's not borne out by any evidence in the case.

14 What D.D.5 218 which is the source of this
15 information indicates is that after Anthony -- it's an
16 Anthony Hall interview -- after Anthony Hall and Richardson
17 went to Helen Abbott's apartment they used some of
18 Anthony Hall's money to purchase drugs from Smiley assuming
19 this Smiley is Tyrell Whittaker, which appears likely that's
20 all there is. There is no indication that Tyrell Whittaker
21 ever went into the apartment.

22 Now the defense claims that they don't have the
23 ability to search for him in the videotape, and that's a
24 complaint that alludes me. I gave them a photograph of
25 Tyrell Whittaker on September 2nd. It's eleven days ago;

1 and -- right, eleven days ago? And they had that video of
2 the entire building long before I came on the case, and I
3 gave them a complete new copy of the entire video so I am
4 not sure what is preventing anyone from looking at the video
5 in the intervening eleven days to see whether or not an
6 individual who looks like that photograph appeared in
7 entering the building; but I am just not sure what exactly
8 the argument is here to interview a drug dealer to get him
9 to admit he sold drugs; and to what?

10 This I one I am lost on, Judge. I don't
11 understand what's being requested so it's hard to respond.
12 I am done on Mr. Whittaker.

13 MR. KLEIN: Over the past three years there has
14 been much back and forth about the third individual. There
15 is an individual who is sometimes called Johnny, who the
16 police actually asked my client about a lot; and when they
17 finally arrested the defendant, they immediately go to
18 Mr. Hall's house and ask him who is Johnny because there is
19 a dispute as to whether or not this Johnny, this third
20 person was a friend of the defendant's and lived with the
21 defendant and aided the defendant during this with
22 Ms. Abbott or whether Johnny, in fact, is a friend of
23 Mr. Hall's and went with Mr. Hall. Could be a friend of
24 Mr. Hall. Whatever happened in there, this individual went
25 with hall.

1 It is very unclear. It is hard to know, of
2 course, who to believe in terms of this Richardson telling
3 the truth. Hall went there in front of his confederates.
4 Is hall telling the truth that Richardson went there with
5 one of his own confederates?

6 It is also alluded to in the videotape that is
7 actually going to be shown to the jury there is some
8 fourteen (14) minutes that Judge Carruthers ruled is
9 admissible; and Richardson says in that part of the
10 videotape that this guy and this so called Johnny and Hall
11 seem to be acting together, right?

12 Of course, it's the prosecution's position that
13 they were all acting together. It is our position the jury
14 is going to accept that it was Hall and this other
15 individual who were acting together on their own. Whittaker
16 apparently is a drug seller, who is called that evening and
17 comes over and delivers crack, and it's our position that
18 obviously since he came over and apparently came to the
19 apartment Hall says that, that he'd be able to tell us this,
20 we'd know who he was, what his role was, and how to find
21 him; not whether or not he sold crack there. That wouldn't
22 interest us.

23 What interested us obviously was to know what he
24 could tell us about the relationships among the parties;
25 that is, this Johnny like who did it appear to you he was

1 with, who knew him, who did he know, who knew his name, who
2 did he share money with and all of those things to try and
3 display the notion whether this person, in fact, was really
4 a confederate of Hall as the defendant had been saying as he
5 said in the videotaped statement so that's why it is
6 important.

7 (Transcript continued on the next page.)
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PROCEEDINGS/MOTIONS

1 T-2 - Peo. V March Richardson, Ind.#3534/08

2 September 13, 2011:

3 MR. BOGDANOS: The one problem with that
4 argument is, in the videotaped statement that Mr. Klein alludes
5 to, the defendant actually talks about Johnny and says that
6 he's Hall's friend. And, in fact, they greet each other
7 downstairs on the lobby and say: I'll catch you at Ma Ma's in
8 a minute. Ma Ma being Helen Abbott.

9 Well, you actually see what Mr. Richardson has
10 described exactly on the video, you actually see him greeting
11 some person at the door as the defendant and someone, Hall and
12 someone else come in.

13 So you actually see all of that. So the defendant's
14 statement in that regard is corroborated by the video. The
15 problem with that argument is you then see that individual
16 leave the building before Helen Abbott does while she's still
17 alive.

18 You also, by the way, see the other person who came
19 in with the defendant leave with the defendant while Helen
20 Abbott is still alive because you see her on the video some
21 time later. So at the moment the last -- and then the
22 defendant comes back alone.

23 So at the moment Helen Abbott is last seen alive
24 those two people, the people that defendant describes in the
25 video, the person of Hall, they're gone. They don't come back

PROCEEDINGS/MOTIONS

1 in the building. It's only Hall and Richardson who are in the
2 building.

3 So I come back to the same problem. One, I still
4 don't see how this comes in. I'm not sure how anybody cross
5 examines third and fourth party hearsay. But I don't see the
6 relevance of it. I just wanted to add that particular point to
7 it and I will move on.

8 The second set of paragraphs is, discusses four
9 women, paragraphs 23 to 27, a Jackie Jacino, Maritza Rivera, a
10 Jeannette Anderson and Alicia Spriel and Evon. So it's five
11 all together. Without -- I don't want to belabor any of this
12 but Rivera said, in DD5 160, that she didn't know anything
13 about the murder. She heard from Jackie who told her that
14 Whitey and Green Eyes had done the murder.

15 By the way, it should be clear, these two women,
16 Rivera and Jacino, are actually incarcerated when they are
17 having this conversation. So, in DD5 160, which I am going to
18 offer Your Honor, Rivera says its told to her Whitey and Green
19 Eyes had done the murder. And in DD5 140 when detectives
20 interview Jackie Jacino, she says she never heard of the
21 murder.

22 So I'm not sure what it is -- and here's 160 and 140
23 for the Court -- I'm not sure what Jackie Jacino is going to
24 say since she denies anything of the murder. Could you imagine
25 in that if that is Brady material that every single witness who

PROCEEDINGS/MOTIONS

1 identifies the murder becomes Brady material. Really.

2 With regard to Jeannette Anderson. So your Honor
3 gets it. Rivera sources Jacino, Jacino says it didn't happen,
4 so I'm not sure what that leaves with Rivera and Jacino says
5 she has no knowledge. Jeannette Anderson is, actually,
6 honestly, I really do assume this was just an error, Jeannette
7 Anderson, it's DD5 Number 28, says that she heard the same
8 thing. It's rumors. Three talking words on the street.

9 Jeannette Anderson says she heard that Green Eyes did
10 the murder. Green Eyes did the murder. Here's DD5 28. I
11 don't want to misread. Then she identifies the photo of Green
12 eyes. His name is Barna Medina. Barna Medina was incarcerated
13 in December of 2007, and I don't have the exact dates, I think
14 it was April of 2008 when he got out. Incarcerated six weeks
15 before the murder and for most after. The person that she's
16 saying did it is incarcerated.

17 Kind of shows you what street talk and words and
18 rumor is worth and dueling DD-5s is worth. The defense knows
19 this, I given them his incarceration history, so they know that
20 he's actually incarcerated so that, one, frankly, I'm assuming
21 that's a word processor issue, that name should have been
22 deleted from a list of names.

23 Then the defense argues, same paragraph, that Evon
24 must have information, at page ate, that they have no
25 additional contact information for someone named Evon. Because

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1 in DD5 97 an informant, turns out to be Patrick Green, says
2 Evon told him that she had information that Tony Hall and
3 Whitey, and perhaps some other people, and I'm not going to
4 read it because I don't want to be accused of reading it out of
5 context, had killed Ms. Abbott. So I am going to ask that 97
6 be handed to the Court.

7 Well, the problem is, once again, beside the fact
8 that you have someone saying someone else said something about
9 someone who, Anthony Hall and Whitey and other people did it
10 but, putting that aside, we don't know who Evon is. We don't
11 know if Evon, in fact, it specifically says in the DD5 that's
12 the name he's using for her, there is no indication whatsoever
13 that's a real name. In fact, it's almost certainly not.

14 And New York City Police Department, DA's Office, do
15 not know who that person is. Frankly, if that person exists.
16 And have never known who that person is or if that person even
17 exists.

18 So, again, even if there were some vehicle for which
19 this came in we could be talking about a fictitious person and
20 I don't understand what the good faith basis for that to come
21 before the jury would be. I am not arguing good faith base on
22 the part of the defense, they're fine, I am talking about in
23 front of the jury.

24 Now that I am telling the Court and I assume Mr.
25 Klein, as the Court takes my word, we don't know who that

Glenn J. Merola, Sr. Court Reporter

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1 person is and the informant refused to say the name and that's
2 going to be a recurring theme in a moment.

3 And then, finally, with regard to this list of women,
4 you have Alicia Spriel. Alicia Spriel had indicated that she
5 had information about the murder. Again, it was in her words,
6 street buzz.

7 It turns out that she didn't have information it was
8 her husband who had information but she refused when detectives
9 went to visit her house some woman there said Alicia doesn't
10 live there anymore but shortly there after Alicia called the
11 25th Precinct said I will put my husband on the phone but I am
12 not telling you his name and the Detective then spoke to the
13 man who, again, did not indicate he had any firsthand knowledge
14 whatsoever about the homicide but just indicated that he had
15 the same information I just repeated Your Honor about all the
16 other street buzz.

17 The thing that had -- and this is DD5 -- no, it's
18 not. The thing that had concerned the defense -- it is DD5
19 120. I'm sorry. The thing that had concerned the defense is
20 the note at the bottom of DD5 120 in which, Detective Dimuro's
21 handwriting, it indicates, pointing to the husband, an arrow to
22 the husband, says CI for Kevin Flynn.

23 In fact, that's a question and one of the other
24 detectives had told Detective Dimuro when he was typing up --
25 reviewing the DD5, check to see if he's the informant that

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1 calls sometimes for Detective Flynn. It turns out not to be
2 him. But in fairness to Mr. Klein, the defense, they didn't
3 know that until now. I confirmed it with Detective Dimuro and
4 represented to Detective Flynn, who's actually retired.

5 So let me offer 120 for the Court's consideration
6 here. So the bottom line on that is we don't know who that
7 person is and never knew who that person is and he's not a CI
8 for Detective Flynn or to our knowledge any other detective.
9 And that's it on those women. Yeah, it is on those women.
10 That's it.

11 MR. KLEIN: Let me just respond. The Court has
12 the Fives, the Court can read them, it's just that with regard
13 to the information from Jacino, Rivera, to the individuals
14 first mentioned by the district attorney, she then says, you
15 have to put this together with the information from Evon about
16 this Green Eyes they were talking about a Green Eyes who had
17 done the murder and how ridiculous that was because everyone
18 knows and she, Evon, identifies the Green Eyes as being Barna
19 Medina and detectives early figure out that Barna Medina is
20 dead.

21 MR. BOGDANOS: Incarcerated.

22 MR. KLEIN: I'm sorry. That Barna Medina is
23 incarcerated at the time of the murder and can't have done it
24 and we all agree with it. Then the detective goes on to say,
25 the great surprise in the case, another Green Eyes appears, a

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1 Green Eyes named Mr. Vega, who is also one of suspect in the
2 case and then the detectives realize there's a relationship
3 between Vega and Lax. Lax being Whitey.

4 Much of the street talk that these women talked about
5 is that either Hall does it with Lax or with Whitey, or that
6 Vega is involved, not the defendant, and that's the Green Eyes
7 who it appears that they are talking to, Jacino and Rivera, one
8 of them is actually supposedly doing tricks for Lax who had
9 lived in the building, one of them is a step sister, I believe,
10 of Vega.

11 So it's not that this was a far fetched thing where
12 everyone was off in the ozone looking at a Green Eyes because
13 Detective Dimuro himself notes in his case files this great
14 surprise that there is actually a different Green Eyes who
15 maybe related to the case.

16 So we felt that it was important, obviously, for us
17 to be able to actually speak to Alicia Spriel, find out who was
18 her informant, if it was her husband, then actually to speak to
19 the husband to get information about that and, obviously, to
20 speak to these two women at the time the information came into
21 the District Attorney's Office and then we'd be able to
22 determine whether or not it was the buzz whether they really
23 knew anything or not.

24 But it was certainly a good investigative lead they
25 were giving the detectives and we felt we should have been

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1 given that other people not the defendant were responsible for
2 the crime.

3 MR. BOGDANOS: The one final point on all those
4 women is we see the problem with using DD5s to prove anything.

5 Based on the DD5s the Green Eyes was Barna Medina. A
6 photo of Barna Medina was actually identified. It's in the
7 Fives. That's who was identified as the Green Eyes.

8 Could you imagine if we put that DD5 into evidence
9 and we didn't have the ability to cross examine that person the
10 jury would be left in a position of thinking that Green Eyes
11 must have done it and so I'd have to bring in hearsay to
12 disprove double hearsay.

13 What point does that slippery slope stop? The answer
14 is never if Your Honor were to open that door. We're just
15 about done. Four more points. And I think these are quicker.

16 Number -- paragraph 28. Kathy. Defendant has asked
17 for Kathy. Who's Kathy? Turns out that after Helen Abbott is
18 murdered her apartment is no longer used, it's a crime scene,
19 it's sealed, it's no longer used for crack smoking so there's a
20 new apartment and this apparently is someone who may be named
21 Kathy.

22 This is according to an informant and that's DD5
23 Number 32. Informant, someone named Edwin Santiago, who
24 provided information and the information is elicited in there.

25 The bottom line on that is he refused to give Kathy's

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1 real name. He refused to give Kathy's location. He refused to
2 give anything whatsoever about Kathy. Presumably because it's
3 his new crack spot as well and he doesn't want to give it up.

4 So the defense is asking for something we don't have
5 and never had. So I don't think there is no Brady issue. We
6 never had that information about who this Kathy is if that's
7 her real name or what the spot is.

8 Then the next point is paragraph 29 and it's Matthew
9 Lax. Just so the record is clear because I think there may
10 have been a bit of understandable misunderstandings on the part
11 of the defense. I think I have been able to clear it up but
12 let me do so for the record.

13 We have never received a DNA sample from Matthew
14 Lax. He refused, didn't give us one. But there was none the
15 less a profile in the state DNA data bank that for Matthew Lax
16 and that -- I provided all this to the defendant -- and that
17 actually indicated that Matthew Lax DNA appeared in the
18 apartment on a duvay cover. Not surprising Matthew Lax used to
19 live in the apartment before he left with his girlfriend.

20 I have heard, depending on whom you believe in the
21 dueling DD5 interviews, he left because Helen threw him out.
22 Or, he left because he wanted to and he didn't want to stay
23 there anymore. Or, he left because he was having his
24 girlfriend turn tricks there who actually was the half sister
25 of another person who used to smoke there and it created an

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1 uncomfortable situation. Or, pick all of the above, because
2 every single one of those are in the DD5s.

3 This is the kind of slippery slope we're talking
4 about. This is the kind of information that is going to come
5 in if any of this comes in I submit. So the defense argument
6 is, if I'm misstating I apologize, I don't do it intentionally,
7 that they never had a photograph of Matthew Lax up until
8 recently and, therefore, couldn't engage in their investigative
9 lead that a photograph might have offered them.

10 Well, here's the problem with that. Matthew Lax has
11 been arrested six times in New York County in the last ten
12 years. I looked it up. Five of the six have arrest
13 photographs. There's nothing preventing the defense from
14 having done a simple name search and gotten that and then
15 gotten the arrest photographs. And the defense knows the name
16 Matthew Lax and has known his real name for I think years.
17 Certainly long before I did.

18 And, in fact, they know his NYSID number because it
19 was listed in a DNA report in February 15, 2011, with his NYSID
20 number, they could have gotten arrest photo. So I don't
21 understand. It's one of these, I don't know how to respond to,
22 maybe it's just being thrown out there, maybe they didn't give
23 us a photo.

24 Well, there is nothing preventing the defense from
25 getting a photo on his own. Isn't that what CPL 240.00 says

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1 that the People aren't required to turn over photo that they
2 could have obtained via subpoena duces tecum themselves.

3 Clearly an arrest of an individual whose NYSID number
4 they known since at least February 15, 2011, has to fall into
5 that category. Anyway, I don't know the remedy, I don't know
6 what's being requested with Mr. Lax just like I don't know
7 what's being requested with Kathy.

8 Turning now to 30 and 31. Patrick Green. And I am
9 not stopping just because these are all cut from the same
10 cloth. Patrick Green, the defense clearly indicates they all
11 know the name but they didn't know the significance, they
12 didn't realize that Patrick Green was someone who was required
13 to as a CI or a source and their concern is apparently that he
14 had looked at a video on Saturday afternoon and he had said
15 that, fifty-fifty, thinking he may have seen Matthew Lax in the
16 building on Saturday afternoon.

17 Well, the detectives actually looked and they doubted
18 it but it's not their position to doubt either they have to
19 back it up. So they actually had Anthony Hall look at that
20 exact same clip. Anthony Hall grew up with Matthew Lax.
21 Anthony Hall looked at that same clip and Anthony Hall told
22 them it was actually not Matthew Lax in the photograph.

23 Also, with Matthew Lax and Kathy, I don't know what
24 the defense is asking for because whatever they are asking for
25 doesn't exist.

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1 And then, finally, Desiree Allen. The complaint was
2 they never had information about her prior arrest. They
3 actually did. I turned it over on the 6th. But Desiree Allen
4 is not a People's witness. Desiree Allen is the defendant's
5 girlfriend. Desiree Allen is the actual person who initially
6 put the detective on to Mark Richardson.

7 She initially made anonymous phone call, DD5, 61, and
8 then she's saying you should look at Mark Richardson. Then she
9 came to the 25th Precinct on a pretext, some other matter on a
10 friend of hers, while she was there she said I would like to
11 talk to the Detective. Then a detective came down and the
12 detective said what is it. I think you should look at Mark
13 Richardson. DD5 40. Then she identified a photo of Mark
14 Richardson DD5 70.

15 And, ultimately, Desiree Allen is what enabled the
16 police to connect the person who kept coming in and out of the
17 video in the building with Mark Richardson because she's the
18 one who said Mark Richardson is the one you should be looking
19 at because we had a fight shortly after the murder and he was
20 mad at me, He said don't let what happened to the old lady
21 happen to you. And Desiree Allen was in fear for her safety
22 and that's when she made the anonymous phone call.

23 So I don't understand what the name Desiree Allen is
24 doing in a Brady motion because Desiree Allen is actually the
25 person who inculpates Mr. Richardson. So these last four I am

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1 just at a loss. Thank you.

2 MR. KLEIN: Well, Judge, I will start on the
3 last one. Because when we spoke to the district attorney in
4 his office and explained that we thought there was possibility
5 that Desiree Allen was actually going to be called as a
6 prosecution witness but we had DD5s that seemed to indicate she
7 was known to the police as a liar because she had, for example,
8 made a rape complaint about, seemed to involve Mark Richardson
9 but it also seemed that the police had information saying that
10 she had just made up this rape complaint because as it turned
11 out she didn't want to go to work that day.

12 So we thought it was appropriate if she was going to
13 be called as prosecution witness in the case that we be given
14 that kind of material about her that showed her fundamental
15 unreliability. So that's why we asked for such information.

16 But going back to the other point about Patrick Green
17 and the photograph of Matthew Lax, I guess that's true, we
18 could have found the photograph of Matthew Lax, we could have
19 done that. The problem is not having the information about
20 Patrick Green and not knowing that Patrick Green was a CI, he
21 was the person giving the information.

22 Actually, he was an individual that we should have
23 spoken to. We didn't know this was someone that actually said
24 it was apparently Lax who was seen exiting the building with
25 Mr. Hall and apparently Patrick Green, CI, was giving the

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1 police information about the fact that it may have been Hall
2 and Lax who had done the crime and not the defendant.

3 The district attorney then says but that doesn't
4 really fly because Hall looked at the videotape, Hall who the
5 district attorney says is the other perpetrator here with Mark
6 Richardson and of course has his own reasons to lie, Hall
7 looked at the video tape with the police and said, no, it's
8 definitely not Lax.

9 Of course we all know Hall has very good motive to
10 not give the information to the police who may have been with
11 Mr. Lax because then the police would obviously speak to Mr.
12 Lax who would get Lax to implicate Mr. Hall.

13 So the fact that he identified the individual on the
14 tape being Lax is really irrelevant to whether or not we should
15 have been given access to Patrick Green who had information
16 leading to believe that it was Lax and Hall who had done the
17 crime and not the defendant.

18 And then I think, you know, the district attorney has
19 actually convinced me of something now with regard to this
20 application then, you know, he said, part of the absurdity of
21 what we done is we asked for remedies and what remedies could
22 there possibly be. So I guess he, in a funny way, is actually
23 joining with my client because when my client read this motion
24 he said I don't understand why you're not asking for dismissal
25 of the case here and I guess I thought because I didn't want to

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1 be outlandish and ask for something that I didn't think was
2 appropriate but now the district attorney has convinced me that
3 I was wrong if there aren't remedies that could be given for
4 these obvious Brady violations that have gone on for years with
5 four different district attorneys, not implicating Mr.
6 Bogdanos, if there is no remedy to be fashioned then I ask for
7 the case to be dismissed.

8 MR. BOGDANOS: One minor correction. If I was
9 in artful I apologize. Mr. Klein just said that the clip that
10 Patrick Green may have seen Matthew Lax in was him with Anthony
11 Hall leaving the building. If I led him to say that, that's
12 inaccurate. The clip that Patrick Green said might have been
13 Lax was Saturday entering the building with some woman named
14 Virginia, crack head, street name Virginia.

15 So there is no indication whatsoever anywhere in the
16 record, anywhere in any DD5 or interview or video that has
17 Matthew Lax with Anthony Hall in the building. So I just want
18 to correct that.

19 And in response to Mr. Klein's newest motion, the
20 People remain, the People's position remains the same, that
21 there is no Brady violation here. I simply was entertaining
22 each request so Your Honor could actually see that there was no
23 Brady violation when it was viewed in its entirety and in
24 context. That's a separate argument from the vehicle through
25 which the defendant was, at least as of when they filed the

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1 motion, attempting to enter it.

2 So I don't want to confuse two separate threads of
3 the argument. There is no Brady violation. I am not going to
4 repeat why but there's also the remedies that they are asking
5 for are well beyond any remedy that is appropriate in this case
6 and it actually serves to distract the jury.

7 Thank you, Judge.

8 MR. KLEIN: Judge, I don't know how you want to
9 do this, I do have another motion, not a Brady motion.

10 THE COURT: All right. Why don't you proceed.

11 MR. KLEIN: Sure.

12 THE COURT: I want to get the jury in here at
13 some point.

14 MR. KLEIN: As we do.

15 The district attorneys office indicated that they
16 believe there was an informant who was probably going to
17 testify who was going to talk about jailhouse informant, about
18 statements made by the defendant, I assume are inculpatory.

19 The district attorney last week brought this up and
20 indicated it might be asking for a protective order with regard
21 to this individual because the person couldn't be moved until
22 Monday, Monday being yesterday, because although Mr. Richardson
23 is at Manhattan house now having been moved about two weeks ago
24 for unknown reasons, apparently this informant is still at
25 Rikers Island.

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1 So until he can be moved, which would have been
2 Monday, it wouldn't be appropriate to give the defense
3 information about his name and I was, understood, I had no
4 problem with that. However, Mr. Bogdanos has informed me that
5 discussions have continued with this individual about something
6 to the effect there is no final agreement, cooperation
7 agreement and as a matter of office policy, I believe, he can't
8 get approval to have the individual moved until there's
9 actually a cooperation agreement signed.

10 That may happen or it may never happen and until that
11 happens, that is the cooperation agreement is signed and the
12 individual is moved, then the individual remains in jeopardy if
13 the defense is given information about him.

14 But I don't think that's now a valid reason. I
15 accepted we couldn't do it until Monday until yesterday but I
16 think this is an office policy issue that can't trump
17 defendant's discovery rights.

18 The district attorney's office moves people gets
19 separation orders against people and whether or not there's a
20 cooperation agreement in place doesn't stop them from having an
21 individual moved. They could ask for a court order. They
22 could ask for a court order ex-parte. They could say, Judge,
23 order this individual moved.

24 But now we're before opening statements which is the
25 time that the district attorney's office is required to give

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1 material about anyone, you know, who is going to testify and I
2 think that material has to be given to us now before opening
3 statements, criminal history, the other individual that Mr.
4 Bogdanos says had DD5s, we have write-ups, 6ls, before we
5 proceed to opening statements and to say that there is an issue
6 of office policy can't trump that.

7 MR. BOGDANOS: It's not -- this may just be
8 another misunderstanding. If it's my fault I apologize.

9 This is nothing to do with office policy here at
10 all. This is not office policy trumping anything. It is
11 simple reality.

12 An individual informed the district attorney's office
13 that he had information about Mark Richardson. He was
14 produced. I interviewed him. I have to in good faith as an
15 officer of the court investigate to determine -- I don't decide
16 when the defendant confesses to people he's incarcerated with.
17 I don't decide when they come forward. Once they do come
18 forward as an officer of the court I have an obligation to
19 investigate to ensure that it's credible. Not just housing
20 arrangements but the individuals prior criminal history, none
21 of which can be done overnight.

22 This isn't office policy. This is reality. And so
23 until there's a cooperation -- and there is no cooperation
24 agreement in place. There is none. A cooperation agreement,
25 as Mr. Klein and this Court well knows, has to be approved by

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1 the defendant, by the individual's attorney, and by the Court
2 before whom that individual has an open case. Hence, he's in
3 jail with the defendant so that hasn't happened. Until that
4 happens there is no cooperation agreement.

5 And there's not going to be one until the People
6 investigate sufficiently and get the Court's approval, get a
7 cooperation agreement signed, and then get -- put the
8 individual into protective custody and turn over the material to
9 the defense.

10 Now, there's two things and Mr. Klein had already
11 said these, but the record should be clear. Number one, I have
12 made it abundantly clear to him, on the record and privately, I
13 am getting him everything I get. I am talking about VDFs, I
14 am treating it as if it's Rosario, all his cases, closed cases,
15 open cases, cases from all over the counties, he's getting
16 everything, he's getting exactly what I have, DA data sheets,
17 Criminal Court complaints, indictments, VDFs, whatever it is,
18 he's getting it, I'm compiling that.

19 But the second issue with regard to the protective
20 order is there have been threats against this individual in
21 jail. I said this last time. I'm prepared to go on the record
22 in-camera, out of the presence of the defendant, to give
23 the Court the precise detail of the threats that appear to have
24 been made -- well, certainly appeared to have been made on
25 behalf of Mr. Richardson with Mr. Richardson's name being

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1 used.

2 I made it clear last time, I am repeating, I am not
3 ascribing the threats to Mr. Richardson, I am not saying he put
4 the word out to make sure there are no snitches but I'm saying
5 that this individual has been approached in prison and that
6 individual who approached him used the name Mark Richardson.

7 I am not going to say more then that because I am not
8 in any way going to give the defendant any clue as to who this
9 individual might be. But I said that last week, I will stand
10 by it, I am prepared to make in-camera record as to exactly why
11 a protective order is required here.

12 Judge, I will keep Mr. Klein, the defense informed as
13 to the status. It will not go beyond this Friday, I guarantee
14 that, that the latest he will have everything is Friday. But
15 it's not office policy. Its simple reality of all the moving
16 parts that need to get into place before I can ensure that
17 witnesses safety.

18 MR. KLEIN: Judge, just, can I respond briefly.
19 We all want to start the trial. We all want to start it. Mr.
20 Richardson especially. But the district attorney comes to a
21 point where it says it's investigation is complete enough that
22 they answered ready for trial, to start the trial, cognizant
23 that there are certain things that once they say that have to
24 be turned over to the defense.

25 So, I don't think it's adequate for them to say we

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1 haven't been able to finish our investigation about this
2 individual in part and that's why the material can't be given
3 over. They are either ready or they are not.

4 THE COURT: Is it your position that you are in
5 compliance with the CPL.

6 MR. BOGDANOS: Yes, Your Honor. Absolutely.

7 THE COURT: All right, next issue.

8 MR. BOGDANOS: I have none.

9 MR. KLEIN: None.

10 THE COURT: Okay. One moment.

11 (Short pause in the proceedings.)

12 MR. KLEIN: Have we told the jury anything
13 about --

14 THE COURT: They are all waiting. They are all
15 here.

16 (Short pause in the proceedings).

17 (Continued on next page.)

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1 THE COURT: Back on the trial. With regard to the
2 motion for an order in limine regarding certain alleged
3 Brady violations, the motion to dismiss is denied; and the
4 motion to grant certain trial remedies such as admitting
5 D.D.5's, et cetera, is also denied.

6 As to the second motion regarding the late
7 turnover of certain Rosario material, if it occurs the
8 defense will be given additional time to prepare for the
9 cross-examination of that witness; but that will not stop
10 the trial from going forward. In fact, I am now ready to
11 give my preliminary instructions to the jury if both sides
12 are ready.

13 MR. BOGDANOS: Yes, your Honor.

14 MR. KLEIN: Yes.

15 THE COURT: Thank you. May we have the jury
16 please, Greg.

17 (Off-the-record discussion.)

18 THE COURT OFFICER: Jury entering.

19 (Jury entered the courtroom.)

20 (Jury roll call.)

21 THE SERGEANT: Your Honor, properly seated jury.

22 THE COURT: Jeanette.

23 THE COURT CLERK: Case on trial continued. The
24 People of the State of New York against Mark Richardson.
25 The defendant, his attorney, and the District Attorney are

1 present. Would both sides stipulate the jury is present and
2 properly seated?

3 MR. BOGDANOS: Yes.

4 MR. KLEIN: Yes.

5 THE COURT: Thank you and good afternoon, ladies
6 and gentlemen. I do apologize to all of you for the long
7 delay this morning. The parties have been in the courtroom.
8 We have been working on some legal issues that, that came
9 up. Unfortunately that may happen again during the course
10 of the trial; that is, some legal issue that may have to be
11 addressed with the jury outside. We will do our best to
12 keep those at a minimum and ironically some of the stuff --
13 some of the things that we were talking about this morning
14 might actually save time in the long hall; but that I just
15 throw that out as an aside. I know it is difficult when you
16 are waiting and wondering outside the courtroom.

17 Believe me, we have all been working hard and in
18 terms of the overall trial schedule that has not changed one
19 bit and certainly should there be a change one way or the
20 other, I will pass that information on to you as soon as I
21 can.

22 What we are going to do before we break for lunch
23 is as follows: I am going to give you some preliminary
24 instructions designed to assist you from this point forward
25 and then both attorneys are going to address you with their

1 opening statements. It's -- we are going to go past the one
2 o'clock hour which is our normal time to break for lunch;
3 but we want to get all of this before you and then we will
4 take an extended lunch, so there will be a normal lunch
5 period on the other side and we will start up a little bit
6 later this afternoon; and you will begin to hear the actual
7 testimony later on this afternoon so I do apologize if any
8 of you are getting hungry but this helps us in terms of the
9 schedule.

10 All right, I will now start out with the
11 preliminary instructions. So what is a jury trial? It is
12 sometimes said usually by appellate judges that a trial is a
13 search for the truth. Actually as many of you have figured
14 out already a trial is simply an adversarial proceeding
15 meaning one side against the other in which both sides
16 playing by well established rules and principles submit to
17 your ultimate decision and that's why we spend so much time
18 during the jury selection process.

19 We want to be sure that each and everyone of you
20 will be a fair and impartial juror and I do believe we have
21 accomplished that. If we are lucky at the end of the trial,
22 we will be able to say that justice with a small "j" has
23 been achieved and that truly is our goal; and speaking of
24 the rules, I remind you again that Mr. Richardson is in
25 court today because an indictment has been filed against

1 him. Once again, the indictment itself is not evidence of
2 anything and it cannot be taken by you to be evidence of
3 anything. The indictment informed Mr. Richardson of the
4 various charges against him and it now brings him into Court
5 to face those charges. As he sits there now he carries with
6 him the presumption of innocence.

7 There is no burden on him or his attorneys to do
8 anything, to prove anything or to say anything at anytime
9 during the course of the trial. To the contrary, it is the
10 People who have brought these charges against
11 Mr. Richardson; and it is, therefore, the People's burden
12 and responsibility to prove him guilty beyond a reasonable
13 doubt of one or more of the respective charges submitted for
14 your consideration.

15 If the People have proved the defendant's guilt
16 beyond a reasonable doubt as to a particular charge, it will
17 then be your responsibility to return a verdict of guilty on
18 that charge. On the other hand if the People have not
19 proved the defendant's guilt beyond a reasonable doubt as to
20 a charge, then it will be your responsibility to return a
21 verdict of not guilty on that charge.

22 You, the jury, are the sole and exclusive judges
23 of the facts. It will be your responsibility and your
24 responsibility alone to determine what the facts are in this
25 case. You will determine the facts based upon the evidence

1 that you hear and see during the course of the trial, and
2 there are three basic kind of evidence.

3 First there is testimonial evidence. That is what
4 the witnesses say to you in court. Second, there is
5 physical evidence and that's simply a reference to the
6 various exhibits that will be introduced during the course
7 of the trial.

8 Third, there is something called a stipulation.
9 Stipulations are simply agreements between the parties as to
10 what -- as to what certain testimony or facts are.

11 In addition, the evidence also includes any
12 reasonable inferences that can be drawn from the testimony,
13 the exhibits, and the stipulations. I am the judge of the
14 law and you must accept the law as I give it to you whether
15 or not you agree with it. You will take the facts as you
16 find them and then apply them to the law in order to reach
17 your verdict.

18 Now, Mr. Palumbo, you happen to be the first juror
19 selected in this case. We have designated you to be the
20 foreperson of the jury. It is largely a ceremonial role.
21 Certainly everyone who goes into the jury room has an equal
22 vote and an equal voice; but we will ask you to perform
23 certain administrative details while the jury deliberates;
24 and then we will call upon you to announce in court whatever
25 verdict it is that the jury ultimately reaches. If you have

1 any concerns about the role, just let us know and other
2 arrangements can be made.

3 Mr. Apostolou and Mr. Dawson, you happen to be the
4 last two jurors selected in this case so you have been
5 designated the alternate jurors. Now the role of an
6 alternate juror is also very important because if anything
7 should happen to one or two of the twelve, then obviously
8 one or both of you will be asked to step in and take over.
9 I ask all, everyone, all fourteen of you to pay particular
10 attention to everything that transpires in the courtroom;
11 and as we go along, ladies and gentlemen, you must always
12 keep in mind the following rules which apply at all criminal
13 trials.

14 Number one, you must not discuss the case amongst
15 yourselves or anyone else. Number two, you must not form or
16 express any opinion about the case as we go along. Number
17 three, you must not visit or view any location that is
18 mentioned during the course of the trial. Number four, you
19 must avoid any depiction of the case in the media if there
20 should happen to be any. Number five, very important, you
21 are not permitted to gain additional information about the
22 law or the case or the parties from any source whatsoever
23 including the Internet; and finally, number six, if anyone
24 should attempt to approach you and to discuss the case with
25 you, you are of course to avoid any such discussion and then

1 you must bring the matter to my attention as soon as
2 possible.

3 It is possible because of the way in which the
4 courthouse has been constructed that you might actually see
5 someone outside the courtroom who is connected with this
6 case. It might be one of the parties. It might be a
7 witness. It it might be a member of the public who just
8 happens to be interested in this particular case, but if
9 that should happen; that is, if you have such a face-to-face
10 encounter with that person, please do not even say so much
11 as good morning or good afternoon. No conversations
12 whatsoever are permitted and, of course, the parties have
13 been given similar warnings.

14 The reason for all of this is obvious. Your
15 verdict, whatever verdict it might be must be based solely
16 upon what happens here inside the courtroom and upon nothing
17 else.

18 Now, every criminal case proceeds in the same
19 orderly fashion. As I said in a few minutes when I complete
20 these preliminary instructions I am going to turn to the
21 parties, the attorneys, and ask them to deliver their
22 opening statements. By law, the People must deliver an
23 opening statement in a criminal case. That opening
24 statement itself, however, is not evidence. Rather
25 Mr. Bogdanos will set forth in -- it will be a preview by

1 which he will set forth in an overview what he expects to
2 establish through the evidence during the course of the
3 trial.

4 As I said when he is finished, Mr. Klein will
5 deliver an opening statement on behalf of Mr. Richardson.
6 Again that's -- that also is not evidence and simply will
7 serve the same purpose from the defense perspective as the
8 People's opening serves from theirs.

9 After the opening statements you will begin to
10 hear the evidence in the case. The People will present
11 their case first. The People must present evidence in order
12 to establish the charges that they have brought. The People
13 will present evidence by calling witnesses who will testify
14 first in response to questions from Mr. Bogdanos. That is
15 called direct examination. When he is finished asking
16 questions of a particular witness, one of the defense
17 attorneys may also ask questions of that same witness. As
18 you probably know that is called cross-examination.

19 The process of direct and cross will actually
20 continue until there are no relevant, probative questions
21 for that witness. The witness will then be excused.
22 Another witness will be called and the process will repeat
23 itself. When the People have concluded the presentation of
24 the evidence on their case, Mr. Bogdanos will rest. The
25 defense may then if it wishes present it's case, but again

1 the defense is under no obligation to do this.

2 If the defense does present evidence, it will do
3 so in the same fashion; that is, defense counsel will call
4 the witness. One of them will ask the questions first and
5 then Mr. Bogdanos will have an opportunity to cross-examine.

6 When you have heard all of the evidence in the
7 case the parties will rest and then you will hear the
8 summations. The summations like the opening statements are
9 not evidence. Rather they are attempts by the attorneys to
10 convince you that the evidence you have heard supports their
11 respective positions; so you are free to accept or to reject
12 the arguments that you hear in summation based upon your
13 determination of what the facts are in the case.

14 After the summations, I will charge you on the law
15 and then finally you will retire to deliberate. As I said
16 all of that is coming up in the not too distant future
17 hopefully; and as we go along I will try to give you
18 periodic updates but as I said so far so good we are on
19 track.

20 Ladies and gentlemen those are my preliminary
21 instructions. As I said I am now going to turn to the
22 attorneys beginning with Mr. Bogdanos and ask them to
23 deliver their opening statements.

24 THE COURT: Mr. Bogdanos.

25 MR. BOGDANOS: Helen Abbott was 69 years old. As

1 fate would have it, she was born September 3rd, so last
2 Saturday she would have turned 73. Helen Abbott lived at
3 2400 Second Avenue, the Wagner houses on 124th Street and
4 Second Avenue. She lived on the twelfth floor, Apartment
5 12-E. She had four children, Renee, Cheryl, Joseph, and
6 Norman. She had seven grandchildren. She had eight great
7 grandchildren. She was five foot three and one hundred
8 twenty pounds; and the reason the evidence will show you
9 that she didn't reach her 73rd birthday is six foot five
10 inch 290 pound Mark Richardson.

11 The evidence will show you that that man acting
12 with others ended that woman's life on January 11, of 2008.
13 You will learn a lot about Helen Abbott. You will learn
14 that midway through her life's journey she lost her way.
15 Unlike Dante she didn't have a Beatrice or a Virgil to bring
16 her back so she began using alcohol and drugs. Started with
17 weed, marijuana. Moved onto crack cocaine; and you will
18 learn that perhaps the last 20 years of her life was spent
19 facing those demons. Making life choices that I strongly
20 suspect no one in this jury or courtroom would make; and
21 that was Helen Abbott. I told you one of her daughters
22 Cheryl, nonjudging Cheryl. Cheryl maintained contact with
23 her mother on a daily basis usually by phone.

24 Cheryl is a talent manager so frequently would
25 have to travel to Los Angeles, but would always talk to her

1 mother and indeed the need for the two of them to talk was
2 so strong that Cheryl actually put her mom on her cell phone
3 plan and got her mom a phone; so that they could talk on an
4 almost daily basis and indeed the phone itself broke in
5 early January of 2008 and Cheryl immediately got her a new
6 phone.

7 You can't imagine how happy Helen was when she got
8 her new phone little realizing she had days to live. The
9 last time Cheryl talked to her 69 year old mother was
10 Thursday night, January 9th, at about 5:54 in the evening.
11 Cheryl noticed that her mom was a little shorter. A little
12 more curt than usual on the phone. It was a short
13 conversation unlike the other longer ones they had; but
14 Cheryl always gave her mother space. Didn't pry and didn't
15 question the life-style that she had chosen and then Friday
16 came around and no phone calls.

17 Cheryl called but there was no answer, and then
18 Saturday also no phone calls. Cheryl called. There was no
19 answer and Sunday still no contact. Unusual for that mother
20 and daughter to not have spoken for three days so Cheryl who
21 grew up in those Wagner houses from a small child -- Helen
22 had been there almost fifty years -- Cheryl on that Sunday
23 afternoon January 13th at about 3:15 in the afternoon went
24 to the 2400 building of Wagner houses. Took the elevator up
25 to the twelfth floor. Got to 12-E, her mother's apartment.

1 The door was closed but unlocked. Unusual Cheryl thought to
2 herself and she opened the door and she went into that dark
3 hot apartment. She noticed that her burner was on in the
4 kitchen. That was odd and walked looking for her mother.
5 She walked past the kitchen on the right-hand side.

6 She walked down the hallway. She walked into the
7 living room, past the living room. There was silence. She
8 walked down a long hallway. Bathroom on the right. There
9 is a bedroom -- sorry -- bathroom on the left, bedroom on
10 the right and still silence and still she walked down that
11 hallway until she came to the last bedroom on the left-hand
12 side and saw what no one should ever see, her mother; and
13 when she entered that room, her mother on the side of the
14 bed on her right side, her practically naked. Her pants
15 pulled down below her knees. Her shirt pulled up, up to her
16 shoulders. Her body exposed and there was a cord, an
17 electrical cord around her neck; and she was lying
18 motionless. Her hands out to the left lying on her right
19 side; and the right face lying in a pool of her own dried up
20 blood.

21 Not processing what she saw Cheryl continued to
22 walk forward hoping maybe her mother had just fallen; maybe
23 it was the shadows playing tricks with her eyes; maybe her
24 mother wasn't dead and naked in her bedroom but she was.
25 She touched the side of her face with the back of her hand

1 and what happened next is really a blur for Cheryl. She
2 immediately called her sister; and one of the first things
3 you will hear she thought about was please I don't want
4 anyone to see my mother like this. It's my mother. Naked
5 like this. Who knows what they did to her before or after
6 they killed her; and so she tries to call her sister. Can't
7 get her and she leaves Wagner houses.

8 She goes to get her sister. Renee brings her back
9 20 minutes later and gets the police. There are police in
10 the viper building. Viper is a video surveillance system,
11 that is set up in the housing projects throughout the city
12 and she gets the police officers and the police officers go
13 up to what is now a crime scene; and they find sure enough
14 that the cord is around Helen Abbott's neck.

15 It is a cord that was cut off of a lamp that was
16 in the living room, and the crime scene detectives arrive.
17 They take photographs. You will see those photographs in
18 court. I warn you now murder is not social work and these
19 will be disturbing; but this will be the evidence before
20 you, before you were even told, and you will see the
21 photographs of Ms. Abbott but you will hear other things
22 about the crime scene and about the body. You will hear --
23 the evidence will show you that the cause of death was
24 ligature strangulation; ligature, the electrical cord that
25 had been cut from the lamp in the living room; and you will

1 hear that it was the cord that ended her life wrapped around
2 her neck so tight that it fractured the hyoid bone on the
3 left side and created a deep burrow in her neck; but that is
4 not the only injuries you will hear because in addition to
5 that, you will hear that there are other injuries in the
6 neck consistent with Helen Abbott being put in a choke hold
7 in which someone's arm is placed around her neck; and the
8 radial bone of the forearm placed against the left side
9 because it created additional trauma on the left side of her
10 neck but there is more.

11 She was stabbed 22 times at least 22 times with
12 what appear to be a pair of scissors that were never
13 recovered. You will hear why. Of those twenty-two wounds
14 seven of them would have been fatal had they been given the
15 chance, but she was strangled too fast and the heart beat
16 just a few more times after one of those stab wounds went
17 into her left jugular and then another stab wound into the
18 left aorta and two more in her chest cavity and another into
19 her liver and kidneys again and again and again 22 wounds on
20 the -- mostly all except three on the left front side.

21 But there is more. She was also beaten at least
22 three separate blows to the left side of her face. She had
23 abrasions on the right side that appear to have come from
24 the fall when she was either thrown to the ground or fell.
25 She had seven fractured ribs -- six fractured ribs but one

1 is broken in two places.

2 Four -- two of those appear or three altogether
3 appear to have come from the fall on the right side; but
4 there are four more on the left indicating a real beating.

5 You will also hear from the crime scene analysis
6 that at least one of the blunt forced trauma -- blunt force
7 not sharp, hard like a fist -- at least one blunt force
8 trauma took place while she was already on the ground. An
9 expert will tell you, you can actually see the blood spatter
10 that circled her body in a radial pattern never going higher
11 than 18 inches indicating to the expert you will hear from
12 she was stabbed in the front; so she has already been
13 stabbed and she is faced down and she is on the right side;
14 and you will hear that someone hit her again after she was
15 down into a pool of blood and caused the blood to spatter
16 and make as I said to a height of eighteen (18) inches to
17 around her body.

18 You will also hear because the evidence will show
19 you she didn't fight back. No wounds on her hands -- what
20 are called defensive wounds on her hands, on those frail
21 arthritic 69 year old hands. Not on the back. Not on the
22 front. Nothing. Never fought back.

23 You will hear because the evidence will show you
24 that all of these wounds, everything the stabbings, the
25 choking, the punching had to have occurred in a very

1 short -- and fractured rib -- had to occur in a very short
2 period of time. Too much for one person to have done
3 everything.

4 You will also learn because the evidence will show
5 you that the time of death of the victim is consistent. No
6 one is going to give you an exact time, but it is consistent
7 with having died Friday afternoon, at least 48 hours before;
8 and all of you will hear all the reasons about lividity. It
9 is because the blood pools gravity closer to the ground and
10 causes a purpling of the skin.

11 You will hear how rigor mortis had passed by the
12 time of autopsy. Rigor mortis is when your body starts to
13 freeze up after death passes. Usually about 48 hours. You
14 will find you will hear it already passed indicating she had
15 been dead for more than 48 hours. You will also hear -- and
16 you need to hear these things because one of the elements
17 the People have to prove is the time of death, approximate
18 time of death for Friday afternoon of Ms. Helen Abbott.

19 The skin had already started to change color, and
20 there had been skin slippage, all decomposition factors
21 that take place after a body has been dead for a period of
22 time.

23 And you will learn that the Wagner houses as I
24 mentioned has a very robust video system. You will see this
25 chart. The person who prepared it will come in to

1 testify. I am sorry. I am not going to go into any detail
2 now but what you will learn of relevance to you in this case
3 is that it is impossible to enter or leave the 2400 building
4 without being seen on camera. Impossible. Can't be done.
5 Cameras cover every angle; and while you don't have to
6 memorize them in any way, you will find that there is a
7 camera -- here is the lobby. Here is the front door; and --
8 forgive my back, your Honor -- Camera 1A as it's called,
9 it's in the front of the building looking in the front door.

10 Camera 1B as it's called is inside looking out.
11 Between those two cameras they cover every entrance and exit
12 that will matter as you will see in just a moment. There
13 are only two ways to get in and out of that building. The
14 front door or the side door both of which are visible on
15 both those cameras. You will also learn there is a camera
16 in the lobby, and then in each elevator as well as next to
17 the mini police station on the lobby floor.

18 You will see Helen Abbott walking out of her
19 apartment taking the -- you won't see her coming out of the
20 apartment. There are no cameras in the hallways, but you
21 will see her taking the elevator Friday morning at about
22 3:30 and you will see that is the last time she is ever seen
23 alive. She leaves her apartment at about 3:30 Friday
24 morning and goes and takes the elevator. Goes to the lobby.
25 Goes to the front door. You will see her.

1 She wore a wig and has a slight little arthritis
2 so she drags her right leg just a little bit but pretty good
3 for 69, and you will see her leave to go to the store and
4 then you will see her come back with a little bag. You will
5 see all this video. That is about 3:30 a.m. on Friday
6 morning January 11th of 2008; and then you will never see
7 her again until you see her dead body as Cheryl had found it
8 on Sunday afternoon.

9 You will also see the defendant. This man right
10 here Mark Richardson lives in Queens but has business in
11 Manhattan, and you will see that the defendant enters -- you
12 don't need to memorize any of this; all of this is going to
13 be in Evidence -- but you will see that the defendant
14 indicated here as male, that the defendant enters the
15 building four times on Friday. Comes in at about 12:50
16 a.m.; so just past midnight Friday morning goes up to the
17 12th floor with three other people and leaves the building
18 at 3:10.

19 Shortly after he leaves. Helen Abbott leaves and
20 that's the last time you ever see her alive. Then she comes
21 back in at 3:29. That's the exact last time she is ever
22 seen alive; but then the defendant comes back and he comes
23 back as you will see at 11:24 in the morning. You will see
24 him. He stays for about a half hour. Takes the elevator to
25 twelve and then gets on the elevator at eleven when he

1 leaves a half hour later.

2 He comes in a third time that day at 12:18 and
3 goes up to twelve and then later on takes the elevator down
4 and leaves and he comes in a fourth time at about 2:14. You
5 will see it here, 2:15. Gets off at twelve. Fourth trip of
6 the day to the twelfth floor and stays for about two hours
7 and thirty-six minutes and he finally leaves at 4:50; so
8 there are four different times that the defendant goes into
9 the building on Friday -- and gets off Helen Abbott's floor
10 on Friday afternoon, January 11th.

11 Well, the detectives see that too and so
12 immediately you will learn because the evidence will show
13 you -- track down that individual, turns out to be
14 Mark Richardson -- to interview him. This guy was there
15 four times on the day of the murder. He might be a witness.
16 Let's talk to him so the detectives do talk to him; and the
17 defendant tells them that on January 11th of 2008 the day of
18 the murder he has an alibi. He has an alibi.

19 His alibi he was working at the Parks Department
20 that day and he doesn't just say he has an alibi but after
21 meeting with the detectives, he goes to his supervisor, a
22 counselor at the Parks Department. He gets her to write him
23 a letter saying that he was at work all day on January 11,
24 2008, the day of the murder; so there you go. It's over.
25 Can't have done the murder. He's got an alibi.

1 Well, of course, he doesn't because he is on
2 video; so you will learn because the evidence will show the
3 defendant's not here because he lied to the police. The
4 defendant is not here because he presented a false alibi.
5 The defendant is not here because he did any of those
6 things. The defendant is here because the evidence will
7 show you he committed a murder; and in order to not be found
8 guilty of the murder or even arrested for the murder, he
9 presented a false alibi; and you will hear those witnesses
10 come before you so the question that the evidence will pose
11 to you is, well, if he is on the video all day long, coming
12 in and out, why would he lie?

13 It will become abundantly clear to you why he
14 lied. The evidence will show you why he lied because you
15 will see right next to the victim Helen Abbott when her body
16 was found, she was found on the floor right next to a bed,
17 and right next to that bed is a broom. This broom, it is on
18 the bed. The bed is made. A couple of feet away from --
19 you will see the broom. It will be in court -- a couple of
20 feet away from the victim.

21 What's a -- what's a broom doing on the bed? But
22 you will learn that the defendant's right palm print is on
23 that broom found on the bed feet away from Helen Abbott but
24 there is more. Helen Abbott as I told you was on the floor
25 face down practically strip naked. You will learn because

1 the evidence will show you that there are no holes what are
2 called defects in the clothing. In other words the clothing
3 was pulled up and down before she was stabbed. She was
4 naked when she -- half naked when she was stabbed. You will
5 learn because the evidence will show you that turned out to
6 be a mistake for the defendant because he left a witness on
7 her left breast, amylase. Human amylase has two sources.
8 Saliva or sweat. You can't determine which of the two it is
9 but it is one of the two, saliva or sweat.

10 You will learn because the evidence will show you
11 that the defendant left his sweat or saliva on her left
12 breast. You will learn from a DNA expert who will tell you
13 exactly how it is known that it is the defendant's saliva or
14 sweat; and you will learn that the chances of it being
15 someone else in the population is one in eighteen billion,
16 B, billion; one in eighteen billion. What's that? Three
17 planet earths? So you will learn that stripping her left a
18 witness but there is more.

19 I told you that the defendant was in the building
20 getting off of her floor that afternoon from about 2:14 to
21 about 4:50. Forgive my back and clumsiness. Well, at
22 exactly 3:02 remember that phone Cheryl got for her mom, the
23 phone that was broken but she got it fixed. The phone that
24 is on Cheryl's plan you, will learn that at 3:02 that
25 telephone starts making a series of calls, 22 calls

1 altogether. Helen Abbott's phone makes 22 phone calls
2 between 3:02 and 4:59, and again no memorization for this.
3 It will all be in evidence; and the phone calls that are
4 made while the defendant's in the building leaves his saliva
5 or sweat on this breast leaving his palm print on the broom
6 next to the body, the defendant -- that phone is being used
7 to call the defendant's family.

8 Twenty-two phone calls. You will hear that Sprint
9 didn't capture the number on two of them. They just can't
10 tell what number was dialed so take those two out. You got
11 twenty. Out of the twenty, nineteen are the defendant's
12 family. Two to his brother. Look at the length of time
13 they talk on someone else's phone while he is in the
14 building leaving his DNA and his palm print on this dead
15 body.

16 Nineteen phone calls to his brother, daughter,
17 stepsister, father, sister, wife's work, wife and cell
18 phone. You will have all the phone records for this.

19 (Transcript continued on the next page.)
20
21
22
23
24
25

OPENING/PEOPLE/BOGDANOS

1 T-4 - Peo. V Mark Richardson, Ind.#3534/08

2 September 13, 2011:

3 MR. BOGDANOS: And so you are beginning to see
4 how the evidence will show everything converges, converges on
5 the defendant.

6 And so the defendant makes another statement. You
7 will see that statement. It videotapes the defendant. The
8 defendant who the evidence will show used her phone after she
9 was dead. The defendant who the evidence will show was in the
10 building on the 12th floor with others. The defendant which
11 the evidence will show leaves his DNA and palm print.

12 The defendant made a statement, it's videotaped, you
13 will see it, it's 14 minutes long, in which he admits that he
14 was in the apartment and his words, as you will see, are that:
15 Yeah, Anthony was there.

16 Anthony Hall, a man who lives on the 11th floor.
17 Remember the defendant always gets off on 12 always gets on at
18 11. A guy named Anthony Hall lives on the 11th floor was there
19 with him and a guy named Johnny. Sorry, can't tell you the
20 rest of his name, don't know him, but Johnny was there and it
21 seems, according to the defendant, that Anthony Hall owed the
22 defendant twenty-eight dollars or thirty dollars and Helen
23 Abbott, according to the defendant, owed Anthony Hall thirty
24 dollars.

25 Therefore, in their logic, Helen Abbott owed the

OPENING/PEOPLE/BOGDANOS

1 money to Mark Richardson. And so sure enough Mark Richardson
2 goes with Anthony Hall up to the apartment. This is what he
3 admits. Goes up to the apartment to get his money, excuse the
4 quotes, his money from Helen Abbott.

5 Because, according to the defendant, Anthony Hall and
6 Ms. Abbott start arguing. I am not sure how you argue with a
7 five foot three inch 69 year old woman. It starts to get
8 violent and physical and while Ms. Abbott is being bounced
9 against the refrigerator, according to the defendant, he sees,
10 just so happens, exactly thirty dollars in her sweater, shirt,
11 blouse, I think it's blouse is the word.

12 You will hear from Cheryl that Helen Abbott was known
13 to keep her money in her bra or in her blouse. It was kind of
14 a common joke whenever she went to the corner bodega to get
15 something, pay for it, she would turn around, put her hand down
16 her shirt, pull her money out.

17 Listen, we're all entitled to our little
18 idiosyncracies, this was hers. She took the money out, put it
19 back in the bra, in her heart, and make Mark Richardson says he
20 sees that money, grabs it, six foot five inch two hundred
21 twenty pound man grabs the money from her shirt.

22 Helen Abbott doesn't want to give it up so apparently
23 she grabs his shirt and now the other two individuals, Johnny,
24 Anthony Hall, defend him. They defend him. Against Helen
25 Abbott. Right? Because they got to defend him.

OPENING/PEOPLE/BOGDANOS

1 So, Johnny puts Helen Abbott in a choke hold and
2 Anthony Hall, according to the defendant, repeatedly stabs her,
3 punches her in the chest, but he sees something silver in
4 Anthony Hall's hand and sees blood on her front on her blouse
5 and clearly indicating that she's being stabbed.

6 Mark Richardson, immediately runs out and leaves the
7 building and you will see him leave at about 4:50 that
8 afternoon and says that he saw uniformed police officers at the
9 door as he was leaving as Helen Abbott was dying bleeding to
10 death up in her apartment.

11 And, in fact, you will see on video there are police
12 officers who happen to be arriving at this time on unrelated
13 matter and he opens the door and lets them in.

14 That will be the evidence before you. I warn you
15 now, as I did during jury selection, some of it will be long
16 and cumbersome. There is no way to make telephone records
17 interesting. You are going to hear a lot of testimony about
18 DNA, and alleles, and losis, and more than you could possibly
19 want to know and you will hear from the Medical Examiner about
20 wound tracks and transeeking aorta and bones.

21 Again, more than you could possibly want to know.
22 And in some respects I will beg your indulgence, some witnesses
23 will be called out of order for their own personal scheduling
24 reasons so please bear with me in that regard.

25 But when all of the evidence is in, putting it all

OPENING/PEOPLE/BOGDANOS

1 together, you will see because the evidence will prove to you
2 that in the entire universe, actually, in three different
3 universes, there is only one possible person who could have
4 done this and the man who did that is before you today and you
5 will learn because the evidence will show that whether it was
6 those hands that used the scissors, or maybe those hands used
7 the electrical cord, or maybe those hands did the choke, or
8 maybe those hands fractured the ribs, or maybe those hands
9 battered her face, or maybe those hands stripped her naked, or
10 maybe those hands took the money, whatever his part in this, of
11 one thing you will be sure, that it's those hands that ended
12 her life, the life of Helen Abbott, and so I will return to
13 this spot a week and a half, two weeks from now, and I will ask
14 you to return a verdict of guilty as to Mark Richardson.

15 Guilty of Murder in the Second Degree. Guilty of
16 Robbery in the First Degree. Guilty of Robbery in the Second
17 Degree. Guilty of Sexual Abuse in the First Degree. And I
18 will ask you to do that for one reason, and one reason alone,
19 because he is. Thank you.

20 THE COURT: Thank you, Mr. Bogdanos. Mr. Klein.

21 MR. KLEIN: Thank you, Judge.

22 Good afternoon. Much of what the district attorney
23 says is certainly true and much of the evidence, the real
24 evidence, the factual evidence, the hard evidence, will and
25 should be accepted by this jury. Much of what he will present

OPENING/DEFENSE/KLEIN

1 will be uncontroverted, unchallenged and acknowledged as true.

2 Much of it will speak for itself and should not be ignored.

3 Nor is there a need, given what really is at stake
4 here, be diminished in any significant way. It's not now not
5 unknown and not unexpected. In fact, much of it's been sitting
6 in files waiting to be brought into court for months if not
7 years. It has not ripened, gave power with the passage of
8 time, nor has it weakened, collapsed with the passage of
9 years.

10 The evidence here just is what it is and is what it
11 was and much of it is evidence that points a powerful finger of
12 dark suspicion at Mark Richardson who sits in that chair.

13 There is, of course, today, one critical new factor entered
14 into the equation after this long period of intense
15 anticipation, that's the group of you that sits in this spot.

16 That's all of you and each of you, neutral and
17 independent women and men, not prosecutors, nor defense
18 lawyers, that finally must examine this slowly collected mass
19 of facts and now must exercise independent thought and
20 judgement because only you can and must now determine, okay,
21 all that stuff.

22 What precisely does it mean in the context of what
23 has to be decided? The mountain of proof can't be ignored. It
24 obviously provides an accusatory pointer of dark suspicion
25 pointed at that man. If it didn't we all wouldn't be here and

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1 no jury would sit in judgement.

2 But how does it make you confident that that man is
3 one of the men responsible for this God awful murder. You
4 decide. If it all shows a suspicion of guilt, a shadow of
5 guilt, a possibility of guilt, an odor of guilt, while powerful
6 and disturbing in itself, is yet nothing more than that and
7 cannot be taken as compelling evidence of actual guilt of this
8 horrendous crime.

9 Finally, an independent jury, that's all of you,
10 chosen because you have no ax to grind and no biased interest
11 in the outcome of this case, gets to scrutinize that very
12 evidence and decide what is proven and what's merely
13 suggested.

14 You do the critical job which none of us are entitled
15 to do and decide once and for all what's proven beyond a
16 reasonable doubt aware of all the dangers that can lurk when it
17 looks bad and appears bad and portrays a defendant in an
18 apparently terrible light, you been chosen to provide us with
19 the answer to the critical issue in a context in which so much
20 is at stake when it might become easy to want to condemn an
21 unappealing man when suspicion surrounds him concerning a
22 horrible crime, only a jury is intrusted to decide what the
23 proof actually shows.

24 When the charge is now murder, the taking of life, we
25 decided that only a jury is capable and responsible for giving

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1 us the critical answers. Only you get to decide is he guilty
2 of murder and robbery as the prosecutor proclaims. You will
3 hear of a dramatic death scene and a terrible family
4 discovery.

5 You will see physical evidence that appears to
6 squarely place Mark Richardson in physical contact with Helen
7 Abbott the victim. His own saliva or sweat on a dead womans
8 breast. You will hear of specially peculiar series of phone
9 calls he makes with the victims cell phone. A broom that he
10 touches that's found in a compromising position. A wallet that
11 someone has gone throw and flipped on a bed.

12 And in that apartment building up on the relevant
13 floor Mark Richardson is there and leaves and goes back again
14 and again and again. You will hear him making statements
15 attempting to explain away his presence and video that
16 controverts his paultry attempt at denial.

17 Sure you will hear of lies that he tells from his
18 very first involvement in the case including a clumsy attempt
19 to construct an airtight alibi, oh no, it couldn't have been
20 me, I was really at work.

21 Phone calls he makes, flatly unconvincingly, denies
22 his matter of being, talking actually will make you disbelieve
23 all he says. Every word out of his mouth appears to be uttered
24 with blatant disregard for the truth.

25 You will see every way he tries to turn to explain

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1 his own action, only ties himself up more in a deeper web of
2 impossible contradiction. He gradually digs his own grave and
3 gets himself put in that chair as he awkwardly tries to deflect
4 suspicion away from himself.

5 Yet, who killed Helen Abbott? This evidence I submit
6 will never answer that question to your satisfaction. Who
7 really created the chain of events that leads to her death?
8 Who was in her house when she dies? Who actually attacked her
9 and thus leaves her on that floor? I believe you will still be
10 asking that question at the end of this case.

11 When is she killed and whose responsible for the
12 homicidal action? That is evidence that will never come close
13 to resolving. Sure, some things will be proven beyond a
14 reasonable doubt here.

15 That he's a liar, a bolster, a disreputable big
16 mouth, having convincingly proven and proven beyond a shadow of
17 doubt that he deserved to be in that chair and accused. That
18 will be powerfully demonstrated and cannot be denied that he's
19 guilty of terrible judgement, of being a fool, and damningly
20 himself with his own attempted to reflect blame will be vividly
21 placed down before you.

22 All that will be proven beyond a reasonable doubt.
23 You will see he obviously panics as he really sees that he's
24 suspected by experienced cops of a murder that he may in fact
25 have never committed. Yet, to which he believes he has no

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1 viable defense because he knows he was there in her apartment
2 on the 10th, the 11th, and obviously involved in his own
3 criminal behavior, he was there, he's caught, and what
4 eventually becomes a scene of the crime and if you who go up to
5 that house are simply partaking in lawful and legitimate acts,
6 better to concoct a defense he says so they'll think I didn't
7 do the murder.

8 Little does he know that his obvious lies only make
9 the police suspicion grow stronger. He's unable to see that
10 just telling the unvarnished truth to inquisitorial cops maybe
11 that would work and be enough to dispel a cloud of suspicion.
12 Yet that thought, the truth, apparently never entered into his
13 grey matter up here.

14 Yet the evidence will never answer the question that
15 you are called upon to ponder because none of this will provide
16 the convincing evidence that he's in fact guilty of robbery or
17 sex abuse, nor felony murder.

18 Sure they'll say it's not this piece alone, that
19 piece alone, you need to put it all together, and if you put it
20 all together it's a lot of stuff yet no totality of evidence
21 heard during this trial will draw you to what we submit would
22 be a reckless decision.

23 The prosecution may simply lack a convincing basis in
24 proof. You will be urged to convict when the fact may not bear
25 out inescapable conclusion that it must be Mark Richardson who

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1 committed these crimes.

2 In closing there is, however, one more point I would
3 like you all to consider because I submit to you that the
4 evidence presented in this case will do more than raise doubt
5 in your mind about who should be found guilty, it will convince
6 you of something critical and enormous if you listen with care
7 and dispassion, it will make you believe and understand that
8 your role is essential, that each of you has a critical job and
9 that's why you been chosen because only you can ensure when the
10 evidence just leaves us all in doubt that no man, no matter how
11 unappealing and unbelievable, is ever convicted of a heinous
12 crime for which he may in fact not be guilty. Thank you.

13 THE COURT: And thank you Mr. Klein.

14 Ladies and gentlemen, as I said, we'll take a normal
15 lunch hour which around here means an hour fifteen minutes. I
16 ask all of you to return at 2:45. Please wait outside we'll
17 bring you in together. Please do not discuss the case with
18 anyone between now and then. All right, 2:45.

19 (The jury exits the courtroom for a luncheon recess.)

20 (Trial was adjourned for a luncheon recess.)

21 A F T E R N O O N S E S S I O N

22 THE COURT CLERK: Case on trial continued.

23 The defendant, his attorney and the DA are present, the jury is
24 not present at this time.

25 THE COURT: All right, both sides ready to

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1 proceed?

2 MR. BOGDANOS: Yes, Your Honor.

3 THE COURT: May we have the jury, please.

4 THE COURT OFFICER: Jury entering!

5 (The jury enters the courtroom.)

6 THE COURT CLERK: Will both sides stipulate that
7 all jurors are present and properly seated.

8 MR. BOGDANOS: Yes.

9 MR. KLEIN: Yes.

10 THE COURT: Thank you. Good afternoon, ladies
11 and gentlemen. Mr. Bogdanos, please call your first witness.

12 MR. BOGDANOS: Yes. The People first call to
13 the stand, Your Honor, Ms. Cheryl Abbott.

14 (The witness, Cheryl Abbott, enters the
15 courtroom, takes the witness stand, is duly
16 sworn/affirmed in by the Clerk of the Court, responds to
17 the oath and testifies as follows:)

18 THE COURT CLERK: Do you solemnly swear or
19 affirm the testimony you are about to give shall be the
20 truth, the whole truth, and nothing but the truth, so
21 help you God?

22 THE WITNESS: Yes.

23 THE COURT OFFICER: Have a seat, please. State
24 your name for the record and spell your last name.

25 THE WITNESS: Cheryl Abbott. A-b-b-o-t-t.

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1 MR. BOGDANOS: May in inquire?

2 DIRECT EXAMINATION

3 BY MR. BOGDANOS:

4 Q. Good afternoon, Ms. Abbott. I know you have a soft
5 voice to begin with and under the best of circumstances, to the
6 extent possible, please try and focus on keeping your voice up
7 so the very last juror can hear you. Okay?

8 A. Yes.

9 Q. And secondly, if whenever you answer yes if you nod
10 your head, if you would just indicate yes or no rather than
11 just nod your head. I know it's human reaction but, again, if
12 you can just focus on that it would be a lot easier. Okay?

13 A. Yes.

14 Q. Ma'am, tell us the county you live in?

15 A. Queens County.

16 Q. Without telling us your current address would you
17 tell us how long you lived at your current address?

18 A. Fifteen years.

19 Q. And before that where did you live?

20 A. In Wagner Houses.

21 Q. How long did you live in Wagner Houses all together?

22 A. Twenty-five years.

23 Q. And what building, what apartment?

24 A. 2400 Second Avenue, apartment 12E.

25 Q. And when you lived at Wagner Houses who did you live

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1 with?

2 A. My mother, my sister, my brother.

3 Q. Would you please give us everyone's full names and
4 ages, please?

5 A. My older sister Rene Abbott Rolian. She's 55 years
6 old. As of today. Well, my brother Norman Abbott, and he's
7 54. Myself, Cheryl Abbott, 53.

8 Q. I was going to tell you not to tell us your age but,
9 go ahead, and your other brother?

10 A. My other brother Joseph Abbott and he's 42.

11 Q. And your Mom?

12 A. Helen Abbott.

13 Q. When was she born?

14 A. September 3, 1938.

15 Q. And what about your father?

16 A. Norman Abbott Senior. And he was -- what do you need
17 to know?

18 Q. Did he pass away?

19 A. Yes, he passed away.

20 Q. When did he pass away?

21 A. He passed away 1990.

22 Q. And what had he done for a living before he passed
23 away?

24 A. He was Air Force -- he was in the Air Force and he
25 was in the Air Force for over 28 to 30 years.

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1 Q. And then he retired?

2 A. Then he retired.

3 Q. Do you remember when he retired from the Air Force?

4 A. He retired in 19 -- I would say 1987.

5 Q. And Ms. Abbott, what is your level of education?

6 A. Some college.

7 Q. What did you study in college?

8 A. Liberal arts. I'm sorry.

9 Q. And at any point -- there is nothing to apologize
10 for -- at any point you need a break all you have do is ask.

11 A. Okay.

12 Q. I am trying to ask easy questions first to get you
13 comfortable. I am obviously not doing a good job. I'm sorry.

14 A. Okay.

15 Q. What do you do for a living?

16 A. I am a talent manager.

17 Q. What does that mean?

18 A. That means I represent a few celebrity entertainer.

19 Q. How long have you been doing that?

20 A. About fifteen years.

21 Q. And where does that take you?

22 A. It allows me to travel to different states, different
23 countries around the world.

24 Q. And before your mother passed away could you just
25 describe, very briefly, please, your relationship with your

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1 mother?

2 A. It was wonderful relationship. That was my friend,
3 my sister, my role model. We had a wonderful relationship. I
4 called her all the time and she just made me laugh, you know.
5 Whenever I was feeling down she made me laugh.

6 Q. And before your dad passed away what did your mother
7 do for a living?

8 A. She was a hostess at different restaurants. She was
9 a model -- first she was a model, traveling a little bit around
10 the world and she became a hostess working.

11 Q. And after your father passed away did you notice a
12 change in your mother and in her life-style?

13 A. Yes, I noticed a change.

14 Q. Would you please explain that to us, please.

15 A. She was diagnosed with high blood pressure and the
16 doctor told her that she shouldn't work anymore, she should
17 retire and just relax, because the pressure was very high.

18 So she ended up just becoming a stay at home mom
19 receiving child support and so by her staying home it allowed
20 her to become a little bit more familiar with the neighborhood,
21 the community, and so, you know, she just started -- just being
22 at home she just started spending a little more time having
23 more fun I would say.

24 Q. Did there come a time when you noticed that your
25 mother began using drugs?

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1 A. Yes.

2 Q. Would you explain that to us, briefly please?

3 A. I would say in the late '80s when drugs, crack,
4 started coming into the Harlem community and because my mother
5 didn't have a problem smoking cigarettes and, you know, I
6 believe she smoked marijuana but she never done any of that in
7 front of the children whenever she would smoke that was just a
8 smoking situation.

9 But when crack came into the neighborhood, again, she
10 never did that in front of me, I guess it was a feel of
11 smoking, she didn't know how dangerous it was, she started
12 doing because people brought it to her and she smoked.

13 Q. And how did it come to your attention that she in
14 fact had developed a crack habit?

15 A. When I just started noticing more company coming into
16 the household and just different activities.

17 Q. Did you ever confront your Mom about this?

18 A. Yes, plenty of times.

19 Q. Would you, again, very briefly, just explain that?

20 A. I just asked her what she was doing, you know, I was
21 aware of what was going on and she denied it. I said if you
22 need any help, please, I'm willing to get you the type of help
23 that you need. So I would call different agencies and they
24 told me there is nothing I can do until she wanted to change
25 her life-style and I couldn't force her.

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1 Q. And so after that you didn't push her?

2 A. I did. I did. But I didn't want to push her where
3 we would become estranged so I tried to figure out the best
4 method but my mother she wasn't ready.

5 Q. Ms. Abbott, I am going to need to show you a
6 photograph of your mother, okay? With the Court's permission
7 may I ask the Court Officer to hand what's briefly been marked
8 as -- that I request be deemed marked for the time being as
9 People's 1.

10 (Handing photo, People's 1 to the witness.)

11 A. Yes. This is my mother, Helen Abbott.

12 Q. And is that a fair and accurate photograph of how she
13 appeared shortly before her death?

14 A. Yes. I would say, yes.

15 MR. BOGDANOS: A copy has previously been
16 furnished to the defense. I would offer this into evidence as
17 People's 1.

18 MR. KLEIN: Okay.

19 THE COURT: People's 1 admitted. We'll mark it
20 later.

21 (People's Exhibit 1 was received in evidence.)

22 BY MR. BOGDANOS:

23 Q. Ms. Abbott, moving to December, 2007, January, 2008,
24 do you recall that time frame?

25 A. Yes.

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1 Q. And how would you describe the level of contact
2 between you and your mother at that time?

3 A. It was -- oh, we were still communicating regularly.

4 Q. What's regularly mean?

5 A. Daily. Everyday.

6 Q. How?

7 A. By cell phone.

8 Q. Did your Mom have a cell phone?

9 A. Yes, she did.

10 Q. Could you explain that to us, please?

11 A. I purchased her a cell phone because I was traveling
12 a lot. She really didn't want a phone in the house. She said
13 that because she was living alone, her children all lived
14 somewhere else, if she got a phone in the house, a land line,
15 we would never come to visit her. So she said the only way to
16 get you guys to the house because I know everybody lives in
17 different states, you would have to come visit me quite often.

18 So I started traveling, I was visiting her a lot and
19 then I started traveling a lot more so it allowed me not to see
20 her so I wanted to get in touch with her I couldn't so I decide
21 to buy her a cell phone and she was the happiest person. She
22 was, oh my God, she loved it because she didn't have to stay in
23 the house she could go out be on the phone.

24 Q. And you mentioned her other children moved away.
25 Could you -- would you please tell us what they did for a

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1 living and where they moved to?

2 MR. KLEIN: Judge, objection.

3 THE COURT: Overruled.

4 Q. Please.

5 A. Norman Abbott, he lives in Richmond, Virginia. And
6 his occupation?

7 Q. Yes.

8 A. He's a retired Correction Officer and so he's living
9 in Richmond, Virginia. He's living there about five years.

10 Joseph Abbott lives in Columbia, Maryland, and he's
11 been living there for, I will say ten years and he's our
12 delivery driver. And my sister Rene, she was living in the
13 same community and housing development but two buildings away
14 and she's a security guard.

15 Q. So you got your mother this phone?

16 A. Yes.

17 Q. And that's in 2007?

18 A. I would say 2007 -- 8, 9, 10 -- yes, 2007.

19 Q. Well, fast forward, did there come a time when the
20 phone broke in the beginning of January?

21 A. Yes.

22 Q. Again, very briefly, just describe that for us?

23 A. The phone, what happened the phone was, she was
24 getting a lot of drop calls, every time I called her there was
25 a bad signal, I guess the towers weren't working, every time

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1 she called the call dropped and then she had her phone on, it
2 was just that, mainly that, so the calls were dropped.

3 And then the call -- the phone was also on auto
4 answer so whenever I called her the phone would automatically,
5 the microphone would come on, the speaker would come on, I
6 could hear her she couldn't hear me.

7 I would say, hi Mom, the speaker is on, and I called,
8 finally got through to her, I said the speaker is on, I said
9 this is not cool because you don't want your house to be an
10 intercom so I said let me come by and correct that and the fact
11 that the calls kept dropping. So I came by the house and I
12 picked up the phone to get it serviced.

13 Q. And when did you bring it back to her?

14 A. I brought it back on a Tuesday. I picked it up on a
15 Sunday and brought it back on a Tuesday.

16 Q. And just so we're clear on the days and dates, and I
17 know I am more guilty than most in getting all these things
18 wrong, you have the 13th is a Sunday, so the 11th was a Friday?

19 A. Right.

20 Q. So you brought her back the phone that week?

21 A. Yes, on that Tuesday.

22 Q. Tuesday. So, someone help me out, 10, 9, is that the
23 8th?

24 A. The 8th, right.

25 Q. The 8th is a Tuesday?

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1 A. Eight, 9, 10, 11, yeah.

2 Q. And you brought her the phone?

3 A. I brought her the phone, yup.

4 Q. And do you remember talking to her that week?

5 A. Yes. Several times that week after I brought the
6 phone back, yes. Yes, I spoke to her when I dropped the phone
7 off I gave it to her.

8 She met me downstairs in the lobby, well, not the
9 lobby in front of the building, I gave her the phone and she
10 was so happy, she was like, oh my phone, oh my God you got it.

11 And she was sitting on a car, she was waiting for me,
12 it was kind of a nice day, sitting on the hood of someones car,
13 just on the side and when I walked up she was crossing her
14 legs, moving her legs, and when I walked up to her I said, my
15 God, you look like somebody's daughter sitting on the car.

16 She said you have my on phone? I said here it is.
17 Oh my God, I love my phone, she started kissing it. I said,
18 Mom, you can't say you love your none stop that. So we talked
19 for a few minutes and then I left.

20 Q. Is that the last time you saw her?

21 A. Saw her, yes.

22 Q. That's the last testimony you saw her?

23 A. Yes.

24 Q. When is the last time you spoke to her?

25 A. That Thursday.

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1 Q. Do you remember roughly what time?

2 A. No. Thursday maybe nineish. Maybe.

3 Q. Would looking at your telephone records help you
4 remember when it was you last spoke to her on that Thursday?

5 MR. BOGDANOS: I will ask the court officer to
6 hand you what I will deem be marked People's 2 for
7 identification.

8 BY MR. BOGDANOS:

9 Q. Just take a look at those documents, please, and tell
10 the Court if you recognize them?

11 A. Yes, I do recognize the documents.

12 Q. What do you recognize those to be?

13 A. My cell phone records.

14 (Continued on next page.)

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1 DIRECT EXAMINATION CONT'D.:

2 Q And, in fact, did you actually get Sprint to produce
3 those for you and then provided them to the District Attorney's
4 Office?

5 A Yes, I did.

6 Q Do they go all the way back to August, 2007, up until
7 January, 2008?

8 A Yes, they do.

9 Q You had an opportunity to look at them previously?

10 A Yes, I did.

11 Q If I can invite your attention -- just to speed it up a
12 little bit, if I could invite your attention to your January
13 phone bill. It should be at the very back and in particular on
14 page -- I am sorry, bear with me your Honor -- on page eight of
15 eighteen.

16 A Page eight of eighteen.

17 Q So the January bill right at the back it would be A 8
18 of 18 and the record should reflect a copy of the phone records
19 have been provided to the defense.

20 A Yes, I have it.

21 Q If I can invite your attention to the left column and
22 maybe four from the bottom.

23 A Yes.

24 Q Just look at that to yourself. Do you see -- you see
25 your mother's telephone number?

1 **A** Yes, I do.

2 **Q** On -- does that refresh your recollection as to the
3 last time you spoke to her on the time you spoke to her on that
4 Thursday?

5 **A** Yes, at 5:54 p.m.

6 **Q** You can put those down now. Thank you.

7 **A** Very well.

8 **Q** Did you ever -- did you ever speak to your mom after
9 that Thursday night at 5:54 p.m.?

10 **A** No, I did not.

11 **Q** Did your mother have any habits with regard to the
12 telephone where she kept it; how she kept it; whether she lent
13 it out; anything like that; any habits concerning the telephone?

14 **A** She kept her cell phone in her case on her belt; and
15 she kept it with her all the time when she was out. When she
16 was in the house she would put it -- she would put it down; but
17 mainly she kept it because she wanted to see if I was calling or
18 one of the family members so she pretty much kept it on her
19 waist.

20 **Q** And did your mother have any habits with regard to
21 where and how she kept her money?

22 **A** Yes. Her money always she kept it in her bra.

23 **Q** For how long has she been doing that?

24 **A** Since I was a child. I would say at least since I was
25 ten years old.

1 **Q** Would you explain to us in a little more detail about
2 that habit of where she kept her money.

3 **A** Oh, yes, my mother was -- she was afraid that maybe she
4 would get robbed. Most people would mostly carry the money in
5 their purse or in a pocket, but she always said they wouldn't
6 think to look inside her bra; so she would always -- some kind
7 of way she was pretty hefty. There was times she would put her
8 money -- well, all the time she would put her money without a
9 wallet just like with cash in her bra; and it would be pretty
10 much in her position.

11 **Q** And what would she do when she was buying something in
12 the store?

13 **A** She would actually go into the store, purchase the
14 item, and in front of the clerk she would actually turn around
15 but they didn't know what she was doing. She would turn around,
16 act like she was doing something, get her money out, and come
17 back around and then pay for her merchandise.

18 **Q** Now, you were saying they didn't know what she was
19 doing. She had done this for --

20 **A** Yeah.

21 **Q** -- more than 40 years?

22 **A** Yeah, so if you are in a community by this time
23 everybody already knew. It wasn't you know --

24 **Q** It wasn't much of a secret?

25 **A** It wasn't much a secret anymore.

1 **Q** Did you speak to your mom at all on Friday the
2 eleventh? You told us about Thursday night. Now we are into
3 Friday the eleventh. Did you speak to her on Friday?

4 **A** No, not at all.

5 **Q** Are you sure?

6 **A** Positive.

7 **Q** How can you be so sure?

8 **A** Because I knew first I was busy. I was busy Friday.
9 When I woke up, I had work to do. I had deals to close and then
10 I realized I hadn't spoken to my mother; so it was around eleven
11 o'clock and I said, oh, I didn't speak to mom today so I called
12 her on the phone and she never answered.

13 **Q** Was that usual or unusual for you to call her that
14 late?

15 **A** It was usual. Anytime of the day.

16 **Q** Did you talk to her -- what happened when you called?

17 **A** Phone went straight to voice mail.

18 **Q** Did you and that's -- that's Friday night you are
19 saying?

20 **A** Friday night, yes.

21 **Q** Did you talk to her on Saturday?

22 **A** No, I did not.

23 **Q** Did you try?

24 **A** Several times.

25 **Q** Explain that.

1 **A** Since I didn't hear from her Friday I figured let me
2 call her Saturday. I called several times. She didn't answer;
3 so I thought maybe I just got the phone fixed so maybe it's a
4 problem again and I said, hmmm, you know, if the phone is not
5 working mom would've called me. She would have went downstairs
6 to a pay phone and said, Cheryl, my phone is not working again.
7 She didn't do that.

8 Maybe she is not aware that the phone is off so I
9 didn't -- I just said, hmmm, it was -- I tried to several times;
10 so I was like, hmmm, this just didn't seem like so I just didn't
11 do anything.

12 **Q** Are you absolutely certain you never spoke to her on
13 Saturday?

14 **A** Absolutely certain.

15 **Q** Did you speak to her on Sunday?

16 **A** No, I did not.

17 **Q** Did you try?

18 **A** Yes, I did.

19 **Q** Explain.

20 **A** On my way to church, before I went to church on Sunday
21 I called her and she didn't answer so as I was going -- I was
22 driving. I had my head set on. I tried a couple more times.
23 She didn't answer so after church service, which was over I
24 would say about two o'clock, I then just said I got to go
25 straight to her house and this was Sunday.

1 **Q** And do you recall approximately what time you arrived?

2 **A** I got there about 3:00, maybe 3:10ish.

3 **Q** And what did you do when you arrived?

4 **A** Well, I don't have a key to the lobby so I just waited
5 for someone to let me in the building; but it seemed like it
6 took some time; so someone finally came to the building and I
7 went to the elevator and upstairs to the 12th floor, which is
8 the floor she lived on.

9 **Q** You have a key to her apartment?

10 **A** No, I do not.

11 **Q** So what did you do when you got to her apartment, to
12 your mom's apartment door?

13 **A** Okay, when I got to the apartment door I was a little
14 nervous but not thinking nothing. I did never thought the
15 worse. I was just saying she hadn't talked to me and so I went
16 to the door and she always had a television that I purchased for
17 her on her kitchen table; and the TV stayed on 24 hours a day.
18 Well, the TV wasn't -- I didn't hear any noise coming outside
19 the door; and the TV, no voices, nothing; so I was like, hmmm,
20 it was quiet but, all right, so I listened. Didn't hear
21 anything so I tried the knob and I didn't knock. I just tried
22 the knob and the door was unlocked.

23 **Q** And when you entered the apartment, did you notice
24 anything.

25 **A** Nothing out of the ordinary first but I did notice that

1 | there was a pair of latex gloves that was hanging from the top
2 | broom closet. There is two closet doors, broom closet, and then
3 | a little small shelf on the top; and I noticed there was some
4 | latex gloves just hanging out and dangling. That's the only
5 | thing I saw unusual. If I opened the door, if she was in the
6 | kitchen where she was always hang out, she would say who is
7 | that. She didn't say nothing, so I continued to walk into the
8 | apartment.

9 | **Q** Now, when you were talking about gloves, your mom would
10 | use for cleaning?

11 | **A** What someone used for cleaning but she -- no.

12 | **Q** I am sorry, I should have phrased that better. That's
13 | the kind of gloves you are talking about, used --

14 | **A** No, these looked more like doctor surgical gloves, the
15 | clear ones type.

16 | **Q** So when you see that, you walk past the kitchen?

17 | **A** I walk to the kitchen.

18 | **Q** Did you notice anything in the kitchen?

19 | **A** I noticed that the TV was off and I noticed that the
20 | cable cord that she used as an antennae -- she didn't have cable
21 | TV and the cord you could see to the antennae part; and she used
22 | the cord. That was cut and I noticed that was cut and left on
23 | the table and I thought, hmmm, still nothing, anything.

24 | So as I walked a few more feet and I looked to the
25 | right, further into the right I noticed that there was the

1 draw -- the utility draw and there was a lot of wires like
2 extensions cords all jumbled and pulled out dangling. Never saw
3 that before; and then I saw the pilot light -- not the pilot --
4 the flame on the stove was on. That was a little unusual too.

5 Q So it is a gas stove so you could actually see the
6 flame?

7 A Yes.

8 Q Please continue.

9 A So the -- so I didn't see her there and the only two
10 places my mother really spent time in her apartment was in the
11 kitchen and in the living room. She slept on the sofa. She
12 said it was close to the kitchen. She could get her food.
13 Bathroom right there and this is her world.

14 So when I didn't see her in the kitchen, I kept walking
15 which is two more feet and I am entering the living room; and I
16 look to the left where the sofa that she slept on thinking maybe
17 she was asleep. She wasn't on the sofa; so at this time as I am
18 concerned she is not in the apartment because she is not in the
19 kitchen or in the living room.

20 Q So where do you go?

21 A So I then start going down the hall so I am thinking
22 maybe she is in the bathroom but she still could hear me walking
23 in. I'd open the door. I closed the door, but nobody came out;
24 so as I walked into the -- walked by the bathroom -- well, I
25 walked in towards the bathroom, I notice in the hallway there

1 | was a blanket, like a comfort -- just a blanket she would
2 | probably use to sleep on; and I noticed that was on the floor in
3 | the hallway, which that was unusual so, hmmm, why is that
4 | blanket there; so I kept walking in.

5 | Now I am thinking somebody was in the house maybe, who
6 | knows who. Maybe my mother might have been in the bathroom, but
7 | I kept walking and I looked into the first bedroom on the right
8 | and I didn't see anybody in there; and then her bedroom -- that
9 | was her master bedroom, that door was closed because she put her
10 | storage stuff in there; and then as I was walking to pass the
11 | bathroom, nobody was in the bathroom; and I continued and as I
12 | was coming down the hall, I noticed that the back bedroom door
13 | was wide open.

14 | It's just opened, whatever; and I noticed that there was
15 | a broom on the bed on top of the comforter and there was --
16 | looked like a wallet that was turned upside down, like all the
17 | contents was scattered so that brought me to, well, what is this
18 | about; so as I decided to walk closer to look to see what was on
19 | the bed -- if I didn't go any further, I wouldn't have known --
20 | but anyway I kept walking and I got close to the bed and to the
21 | left that's when I saw my mother in a pool of blood dead,
22 | swelled, pants down to her ankles, shirt pulled up full of
23 | blood.

24 | It was a white T-shirt, white sweat shirt full of blood.
25 | She wore a wig. The wig was underneath her, and as I was

1 looking, I noticed there was a cord. I could see a cord
2 sticking out. I went -- no, before then I get closer to her
3 after I saw her there. I screamed and I said -- woo, woo, woo.
4 I screamed. Well then, I am thinking maybe she is alive. Maybe
5 she fell. Maybe she is -- so I went over to her but I noticed
6 that the blood had already been thick and red dark purple; and I
7 am going maybe she is alive and I went over to her and I've
8 watched TV. Don't touch the palms with your fingers; so I
9 turned the hand and I touched her with the back of my hand. I
10 felt her face. It was frozen hard, and I was in complete shock;
11 and that's when I noticed the cord sticking out passed the sweat
12 shirt; and I was going she was strangled. Her pants are down.
13 She -- what happened?

14 So I looked at her. I went over. That's my mother and
15 I love her so I was concerned. Was she raped? What happened?
16 So I went over to her body and I looked to see if there was any
17 intrusion from this broom that was on the bed. See if somebody
18 rammed it, but I didn't see any blood. I was like thank God she
19 wasn't raped too.

20 So by that time I'm devastated, so I said calm down. Be
21 strong. Figure this out. Don't scream. I can't scream. I
22 don't want to tell the neighbors. I don't want anyone to see my
23 mother like that. She had so much dignity and respect and that
24 was my hero; and I didn't want her to be exposed this way, so
25 the first thing I do is I called my sister and I couldn't get

1 her on the phone. I called two numbers. I couldn't get her on
2 the phone.

3 Then I am thinking get out of the house. You don't know
4 if this monster is still in the house hiding in the closet or
5 something, and I just dashed out the building. Dashed out of
6 the apartment.

7 Q Is it fair to say that from that moment on the rest of
8 the evening is kind of a blur?

9 A I would say yes.

10 Q But you remember doing certain things but not others;
11 is that fair?

12 A Oh, yes, yes.

13 Q So you -- you run out? Do you remember how you got
14 downstairs from the twelfth floor?

15 A I know I wouldn't wait for the elevator so I believe I
16 took the stairs down.

17 Q And once -- once you got downstairs do you remember
18 where you went?

19 A I went straight to my sister's house.

20 Q Did you find your sister?

21 A No, I didn't. So you want me to finish?

22 Q Please?

23 A So I went straight to her building which is two
24 buildings away, and I had to go into the lobby. She also had a
25 building where you have to use a key to get in. Some tenants

1 were going in the building so I went straight up to her
2 apartment on the second floor, and I banged on the door. She
3 didn't answer; so I then decided to call. She had three numbers
4 and so I decided to try the last number and I got her. She was
5 at work, which was about two blocks -- about ten blocks away;
6 and the first thing I said Renee -- and I hadn't talked to my
7 sister maybe six months. She was a little upset with the family
8 about some stuff.

9 So I called her up and I said Renee, I said, mommy's
10 dead. She was what. Like she was who is this. Cheryl.
11 Cheryl. What are you talking about because she hadn't talked to
12 me. What do you mean mommy -- I said mommy is dead. I left the
13 apartment. She is dead.

14 Where are you? I am in your building. She said come
15 and get me. She screams at the top of her lungs in her office.
16 My mother is dead. My mother is dead. Don't say. Be quiet.

17 So next thing I know, I had to go back towards my
18 mother's building because my car was parked. I drove down. My
19 car was parked and I jumped in the car, and I went directly to
20 her job and when we saw each other --

21 Q Did you pick your sister up and bring her back --

22 A Yes.

23 Q -- to the building?

24 A Yes, I did.

25 Q When you got back to 2400 Second Avenue, what did you

1 do?

2 **A** We had to wait because the door was still locked. It
3 seemed like it took forever for a tenant to come and open the
4 door; but not just one tenant came to the door with no key. Ten
5 tenants it seemed like they came and I am going nobody has a key
6 because I am now trying -- I told my -- well, I told my sister
7 there was a police officer which is called a Viper room.

8 I didn't know you called it Viper. We use to call it
9 Housing cop, and it was a Viper room; so when I spoke to her I
10 said -- she said, did you call the cops. I said no. I needed
11 to talk to you first. I needed family before I reported this
12 because I wasn't sure they were going to have me -- whatever --
13 so I said let's go back to the Housing cop.

14 She said, okay, yes, and then we will let them know what
15 happened; so as we waited in the lobby, outside the lobby it
16 looks like ten people came. Nobody had a key until someone
17 finally opened the door and let us in. We went to the Housing
18 cop, Housing Office that was on the left lobby.

19 MR. BOGDANOS: And if I can ask that the witness
20 be handed if we can put it up to the TV, I request be deemed
21 marked People's 3 for Identification.

22 (Handing.)

23 **Q** And if you would just take a look, you have seen this
24 before?

25 **A** No.

1 **Q** Can you take a look at it.

2 THE COURT: You can stand up if you want.

3 **Q** Do you recognize this to be the lobby of 2400?

4 **A** Yes, I do.

5 **Q** And you see the elevators A and B, is that where they
6 belong?

7 **A** Yes, they do.

8 **Q** Is that where you see --

9 MR. BOGDANOS: Approach it with the Court's
10 permission.

11 THE COURT: Yes.

12 MR. BOGDANOS: Thank you.

13 **Q** You see the door here. Is that where the front door
14 belongs?

15 **A** Yes.

16 **Q** And I am not asking you if it purports to be to scale,
17 but I am not going to ask you that. I will call the person who
18 prepared it. Don't worry. Does it appear to you to fairly and
19 accurately --

20 **A** Yeah.

21 **Q** Let me finish, Cheryl, sorry. Does this appear to you
22 fairly and accurately represent the lobby area of 2400 Second
23 Avenue?

24 **A** Yes, it is.

25 MR. BOGDANOS: I will offer this into Evidence

1 subject to connection. I will, of course, call the engineer
2 who prepared it.

3 THE COURT: All right People's 3 is so admitted.

4 Q And the Viper office that you had indicated is -- if I
5 could see E. You see door No. E?

6 A Yes, I do.

7 Q You knew there were police officers? You didn't know
8 they were called Viper?

9 A Right.

10 Q You know it now?

11 A Yes, I do.

12 Q You use to think they were Housing -- well, they are
13 Housing cops?

14 A Yeah.

15 Q That's E where the Viper office is?

16 A Yes, it is.

17 Q So tell us what you did?

18 A As we went into the lobby we went straight to the Viper
19 room, and we knocked on the door; and there were people that
20 came in the lobby and I told my sister again don't say nothing,
21 you know. I didn't want the neighbors to know. I had to figure
22 this out. I was in shock. I said don't say nothing. Let's go
23 straight to Housing; and as soon as we got into the lobby and we
24 went to the Viper room, we knocked on the door. The door opens.

25 There is still ten's of people in the lobby. They open

1 the door. My sister screamed, "My mother is dead. My mother is
2 murdered." She said, "My mother is dead;" and that's when the
3 whole thing started and we go straight in.

4 Q And without going into the details of -- of what
5 happened next, did you explain to the police officers in there
6 what had happened?

7 A Yes.

8 Q Do you remember one police officer in particular?

9 A Yes.

10 Q What do you remember male, female?

11 A Female. She was a black woman and she was pregnant.

12 Q And do you remember -- did you know that she was a
13 sergeant or?

14 A No, I didn't.

15 Q Do you remember if she was in uniform or plainclothes?

16 A She was in plainclothes.

17 Q And did you -- withdrawn.

18 You told her what happened. Then what did you do with
19 her?

20 A We were -- she asked me a bunch of questions, and I
21 explained to her what I saw; and she says I got to call the city
22 police; and then I'm thinking -- right then we went up to my
23 mother's apartment.

24 Q And do you remember getting on the elevator or is this
25 one of the things that's a blur?

1 A I do remember getting on the elevator.

2 Q Did you get on with the female officer you just
3 described?

4 A Yes, I did.

5 Q And with anyone else that you remember?

6 A I think it was a male officer but in plainclothes and I
7 don't remember.

8 Q Do you remember getting on the elevator with E.M.S.,
9 with -- with Emergency Services with a gurney? If you don't
10 remember, say you don't.

11 A I don't remember.

12 Q But you wind up going back upstairs?

13 A Yes, I do.

14 Q With the officers?

15 A Yes.

16 Q Is it fair to say for the rest of the day you are
17 talking with family and police officers and detectives?

18 A Yes, that's correct.

19 Q Pretty much nonstop?

20 A Nonstop.

21 Q For hours and hours?

22 A Hours and hours.

23 Q Family comes over?

24 A Family comes over, yes.

25 Q Have you had occasion -- you do know at least now that

1 the building itself has -- had and has video cameras that record
2 events? Yes?

3 A I knew we had cameras. They had cameras but I didn't
4 know that they worked. I wasn't aware of that.

5 Q You know that now?

6 A Yes, I do.

7 Q And, in fact, at my request have you -- have I asked
8 you to look at some of the video footage of your mother?

9 A Yes, you did.

10 MR. BOGDANOS: With the Court's permission if we
11 can take that down and, your Honor, if I can have Ms. Pal
12 (sic) come up so she can work the laptop.

13 THE COURT: Is it possible to swivel that around a
14 little bit so she has a better --

15 MR. BOGDANOS: Sure, whatever the officer wants to
16 do.

17 Q Ms. Abbott, while it is getting set up -- and does this
18 need to be on?

19 THE COURT: That's perfect.

20 Q Ms. Abbott, you've had an opportunity to look as I have
21 asked for the clips.

22 MR. BOGDANOS: Does the monitor need to be on?

23 MS. PAL: It should be on.

24 (Pause in the proceedings.)

25 Q Ms. Abbott, you know that there are

1 different cameras -- you know now that there are different
2 cameras throughout the building?

3 **A** Yes, I do.

4 **Q** And just to fast forward there is a camera in the front
5 of the door? There is a camera in the lobby? There is a camera
6 at the elevator, and there is a camera showing inside the
7 elevators?

8 **A** Yes.

9 **Q** And I have asked you to look for your mom coming in and
10 out of the building?

11 **A** Yes, you did.

12 **Q** And you found her?

13 **A** Yes, I did.

14 **Q** And before we look to that, I could stall for another
15 30 seconds. The clips that you saw of your mom were they -- did
16 they fairly and accurately depict your mother as you knew her?

17 **A** Oh, yes.

18 **Q** Of her at that time in January?

19 **A** Yes, in January.

20 **Q** The clips that you looked at do they fairly and
21 accurately depict the front of the building if the camera's in
22 the front? The lobby in the camera was the lobby? The
23 elevator, if the camera was in the elevator?

24 **A** Yes.

25 **Q** It did?

1 A Ah-huh.

2 MR. BOGDANOS: So for the record if you could go
3 to clip No. 24, camera 1B clip entitled 325. Go to
4 expanded, please; and if you would go to 18 minutes and 54
5 seconds into the clip.

6 Q What view are we looking at, Ms. Abbott, please?

7 A That's in the lobby.

8 Q Looking in or out?

9 A Out.

10 Q The lobby looking out the front door?

11 A Leaving the elevator. Getting off the elevator. I am
12 sorry, you are getting off the elevator and you are heading out
13 the front lobby doors.

14 MR. BOGDANOS: Go to 18 54, please.

15 Q Do you recognize that person?

16 A Yes, that's my mother Helen Abbott. That was my
17 mother.

18 MR. BOGDANOS: Can we please go to the next clip
19 25. That's camera 1A. Clip named 338. Please expand it.
20 Nine minutes and thirty-two seconds into the clip, please.

21 Q Who is -- could you tell us who you just saw.

22 A That was my mother Helen Abbott.

23 Q She appeared to be favoring her right leg?

24 A Yeah, she had a little arthritis on the right side.

25 Q She is wearing her wig?

1 **A** Yes, sir, she is wearing her wig.

2 **Q** She was swearing sun glasses?

3 **A** Eye glasses.

4 **Q** They are dark?

5 **A** They are tinted, yes.

6 MR. BOGDANOS: If you would go now please to the
7 next clip 26 coming back.

8 **Q** Was there a bodega or store nearby where your mom went
9 to?

10 **A** Yes, there was a 24 hour bodega that was right across
11 the street two minute walk, three minute walk.

12 MR. BOGDANOS: Play it, please.

13 **Q** And that person, Ms. Abbott?

14 **A** My mother Helen Abbott.

15 **Q** That's her coming back in?

16 **A** Coming back in, yeah.

17 **Q** If we can go just three more clippings and you are
18 done.

19 MR. BOGDANOS: Go to 1B please clip No. 27.

20 (Witness crying.)

21 MR. BOGDANOS: Eleven minutes and twenty seconds
22 in and please hit play. I am sorry, five minutes and
23 thirty-seven seconds, please, clip 347.

24 **Q** Ms. Abbott, same question, who was that person?

25 **A** That was my mother Helen Abbott.

1 Q She is coming back?

2 A She is coming back in the building.

3 Q You saw she had some kind of a bag in her hand?

4 A Yes, she might have went to the store.

5 MR. BOGDANOS: Last clip, please, if we can go to
6 elevator B so that's camera 4 clip No. 29. That will be 29
7 minutes and 20 seconds into.

8 Q Do you recognize this elevator?

9 A Yes, I do.

10 Q Is that one of the elevators in that apartment
11 building?

12 A Yes, it is.

13 Q Who is that woman in that picture?

14 A That was my mother Helen Abbott.

15 Q Getting off that elevator?

16 A Getting off the elevator, yes.

17 MR. BOGDANOS: Thank you. I have nothing further
18 on the video.

19 Q Ms. Abbott, I have no further questions, thank you.

20 THE COURT: Mr. Klein.

21 CROSS-EXAMINATION

22 BY MR. KLEIN:

23 Q Good afternoon, Ms. Abbott. Ms. Abbott, you indicated
24 that you went to the apartment; and you found a couple of things
25 that appeared to be out of the ordinary, right?

1 **A** Yes.

2 **Q** A box of surgical gloves, right?

3 **A** Yes.

4 **Q** And a cable cord that appeared to be cut to a TV in the
5 kitchen, right?

6 **A** Yes.

7 **Q** And the utility draw appeared to be opened in a way
8 that you hadn't normally seen it?

9 **A** Yes.

10 **Q** And the extension cords appeared to be jangled up,
11 right?

12 **A** Yes.

13 **Q** And the pilot light was on?

14 **A** Yes.

15 **Q** Other than that, did the general condition of the
16 kitchen appear to you to be the way it generally was when you
17 had seen it?

18 **A** Yes.

19 **Q** The same -- not the exact same articles but more or
20 less the same stuff in the kitchen area; is that right?

21 **A** Yes.

22 **Q** And then when you walked into the apartment, walked
23 down you eventually came to a living room?

24 **A** Yes.

25 **Q** Okay. Did the living room appear to you to be

1 generally in the same condition that it was other times you have
2 been there?

3 A Yes.

4 Q And is there the same amount of stuff there?

5 A Yes.

6 Q Then as you walk down and if you recall the bedroom off
7 to the right, bedroom No. 1, okay, you looked in there; right?

8 A Yes.

9 Q And did that also appear the way you generally saw it?

10 A Yes.

11 Q With the same amount of --

12 A Yes. Yes.

13 Q Then you indicated there is another bedroom, call that
14 bedroom No. 2, further down and also on the right? Is that
15 okay?

16 A Yes.

17 Q And would it be accurate to say that that room also
18 appeared to be the same way it was when you had generally seen
19 it?

20 A Yes.

21 Q And that was used as a storeroom, right?

22 A Yes.

23 Q It was generally filled with a lot of stuff, right?

24 A Yes.

25 Q The way it appeared on the day in question was the way

1 it was when you generally saw it?

2 A Yes.

3 Q Okay. Now, you also indicated that you gradually
4 became aware of your mother's drug activities; right?

5 A Yes.

6 Q You became aware that she actually had a crack habit,
7 right?

8 A Aware but never -- it was never introduced to me. I
9 never saw her do it.

10 Q All right, and you became aware there was gradually
11 more company in the house? I think those were your words.

12 A Right. That's correct.

13 Q Then sometimes you would confront her about her
14 activities; is that right?

15 A That's correct.

16 Q You didn't want to push too hard?

17 A That's correct.

18 Q You wanted to maintain a relationship with her?

19 A Correct.

20 Q But you would ask her about what was going on in the
21 apartment, right?

22 A I did, yes.

23 Q As a matter of fact would it be accurate to say that a
24 few months before all this happened back in October, you had
25 been over there and an individual had come out of the back

1 | bedroom?

2 | **A** Yes.

3 | **Q** When I say the back bedroom I mean the bedroom that
4 | actually you thought was your mom's bedroom; is that right?

5 | **A** No. Can I --

6 | **Q** I am sorry. Was that bedroom No. 3 what I am talking
7 | about?

8 | **A** He didn't come out of the back bedroom. He came out
9 | from the back of the apartment.

10 | **Q** Back of the apartment? You weren't sure exactly where
11 | they came out of?

12 | **A** Right.

13 | **Q** Would it be accurate to say you asked your mom who the
14 | guy was, right?

15 | **A** (Nod head affirmatively up and down.)

16 | **Q** You knew it was a guy who had some kind of drug
17 | connections in the building; is that right?

18 | **A** Probably, yes.

19 | **Q** And you asked your mom who it was she had living there
20 | at that time, right? You asked your mom, "I didn't know you had
21 | anyone living here," right?

22 | **A** That's correct.

23 | **Q** And your mom said words to the effect I could have
24 | whoever I want; I live here; it is none of your business; its
25 | mine?

1 A Well, it's my --

2 Q Not those exact words?

3 A Right.

4 Q Words to that effect?

5 A To that effect.

6 Q Okay. And now would it be accurate to say that one of
7 the things that you did was you spoke to your mom about how she
8 was supporting her crack habit?

9 A No.

10 Q Did you ever ask her about that?

11 A No.

12 Q And did you ever see your mom out in front of 240?

13 There is a bus stop across the street, right?

14 A Yes.

15 Q That's where 124th and Second Avenue is, right?

16 A Yes.

17 Q That's the M35 bus?

18 A Yes.

19 Q And that's a bus that actually takes people back and
20 forth to Wards Island to the shelter there, right?

21 A I am familiar with that bus, yes.

22 Q And did you ever become aware of the fact that your mom
23 was waiting there and asking people who were on the bus if they
24 wanted to pay her ten dollars (\$10) so that they could use the
25 apartment to smoke crack in?

1 **A** No, I wasn't aware of that. No.

2 **Q** And did you ever become aware of the fact that your mom
3 would sometimes wait there and charge people ten dollars so that
4 if they wanted, they could use the back bedroom, bedroom No. 3,
5 to have sex in? Did you become aware of that?

6 **A** No, I wasn't aware of that.

7 **Q** And did you become aware that your mother was also
8 charging people ten dollars if they wanted to use the house to
9 store their crack in?

10 **A** No, I wasn't aware of that either.

11 **Q** Or to smoke their crack in?

12 **A** No, I wasn't aware of that.

13 **Q** Or to sell crack in?

14 **A** No, I wasn't aware of that.

15 **Q** And you -- the last time you'd actually seen your mom
16 was on that Tuesday, right?

17 **A** Yes.

18 **Q** That Tuesday she met you downstairs; right?

19 **A** Yes, she did.

20 **Q** You didn't go up into the house?

21 **A** No, I didn't.

22 **Q** Right? So at that point like on that Tuesday you
23 didn't know how many people were staying in the house; right?

24 **A** No, I didn't.

25 **Q** Or using the house to smoke crack in, right?

1 **A** No, I didn't.

2 **Q** How many people were storing drugs in the house at that
3 time?

4 MR. BOGDANOS: Objection as to form. If any.

5 THE COURT: Sustained.

6 MR. BOGDANOS: Just as to form. Only as to form.

7 **Q** If any?

8 **A** No.

9 MR. KLEIN: Thank you.

10 THE COURT: Anything further?

11 MR. BOGDANOS: No, your Honor.

12 THE COURT: Ma'am, that completes your testimony.

13 Thank you very much.

14 MR. BOGDANOS: Your Honor, the People next call to
15 the stand Daniel-Bey.

16 THE COURT: Before the next witness starts will
17 the attorneys step up, please.

18 (Off-the-record bench conference.)

19 THE COURT: Ladies and gentlemen before the next
20 witness starts, it has come to my attention that one of you
21 may be taking notes. It's fine because note taking is
22 allowed but he have to read an instruction to you about
23 that. In fact, other people may wish to take notes as well;
24 and if they would like to do so, we do have notebooks
25 available.

1 There is a certain protocol that goes with all of
2 this. All right, where is it?

3 Note taking, for those of you who wish to take
4 notes during the trial I must advise you that notes are not
5 a substitute for the official record or for your own
6 independent recollection; that is, your notes may only be
7 used to refresh your recollection. That means of course if
8 you read something in your notes which you cannot actually
9 remember seeing or hearing, you should not rely on the notes
10 but rather you should request a read back of the official
11 transcript.

12 In addition your notes are solely for your
13 personal use and no other juror should use or rely on your
14 notes in any way. The way we do it is for those who were
15 going to take notes, we do pass out the books. We collect
16 them at the end of the day. We put them in a secure area;
17 and at the end of trial, the notes are shredded so no one
18 will ever have a chance to look at your notes; so with all
19 of that, are there any note takers out there?

20 THE COURT SERGEANT: Raise your hand.

21 THE COURT: Looks like about three or four. The
22 sergeant will explain to you how you write on your book and
23 so on.

24 (Transcript continued on the next page.)
25

DIRECT/SGT.DANIEL-BEY/PEOPLE

1 T-6 - Peo. V Mark Richardson, Ind.#3534/08

2 September 13, 2011:

3 THE COURT: And the name of the witness --?

4 MR. BOGDANOS: Sergeant Daniel-Bey. And there
5 is more video with this witness so may Ms. Powell come up
6 because she did great last time.

7 (The witness, Sergeant Dawud Daniel-Bey, enters
8 the courtroom, takes the witness stand, is duly
9 sworn/affirmed in by the Clerk of the Court, responds to
10 the oath and testifies as follows:)

11 THE COURT CLERK: Do you solemnly swear or
12 affirm the testimony you are about to give shall be the
13 truth, the whole truth, and nothing but the truth, so
14 help you God?

15 THE WITNESS: Yes, I do affirm.

16 THE COURT OFFICER: In a loud clear voice, please
17 state your name, spelling your last name, your shield
18 number and command.

19 THE WITNESS: My name is Sergeant Daniel-Bey.
20 Last name is D-a-n-i-e-l, hyphen, d-e-y. Shield number
21 2122. My command is the 32nd Precinct.

22 DIRECT EXAMINATION

23 BY MR. BOGDANOS:

24 Q. Sergeant, good afternoon. Thank you for your
25 patience today. Would you tell us how long you have been on

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DIRECT/SGT.DANIEL-BEY/PEOPLE

1 the New York City Police Department all together, how long you
2 have been at the 32nd precinct, and how long you have been a
3 sergeant?

4 A. I have been on the job for 16 and a half years. I
5 have been at the 32nd Precinct since 2005 but I had left there
6 for about a year and a half in between and I was assigned to
7 VIPER command for about a year and a half.

8 Q. How long have you been a sergeant?

9 A. Since 2005.

10 Q. And, very generally, what is your assignment now?

11 A. Now, well, what they call Impact Training Supervisor,
12 which is the field training supervisor for the rookies just
13 coming out of the academy.

14 Q. And could you tell us where the 32nd Precinct is
15 located?

16 A. 32nd precinct is located on 135th Street between 7th
17 and 8th Avenue.

18 Q. Now, if I could invite your attention back to January
19 of 2008. Did you have a different assignment than you do now?

20 A. Yes, I did.

21 Q. Where were you assigned?

22 A. I was assigned to VIPER 12.

23 Q. And what does VIPER actually stand for?

24 A. It stands for Video Interactive Patrol Enforcement,
25 the R is, I think it's, I'm not sure what the R is.

DIRECT/SGT.DANIEL-BEY/PEOPLE

1 Q. Does Response sound right?

2 A. Yes, right.

3 Q. So Video Interactive Patrol Enhance Response?

4 A. Right.

5 Q. And what is that exactly?

6 A. It's -- we monitor the activity that goes on within
7 the area concerned and report back to the dispatcher so the
8 uniformed police officer can take actions against crimes that
9 are currently occurring.

10 Q. In housing projects?

11 A. Right.

12 Q. So the enhance response portion it's video cameras
13 setup throughout housing projects?

14 A. Correct.

15 Q. And you were assigned to VIPER 12. Where was that
16 located?

17 A. 2400 Second Avenue.

18 Q. That's the building?

19 A. Yes.

20 Q. And that's in the Wagner Houses?

21 A. Right.

22 Q. Are the Wagner Houses the only housing project in the
23 city that has the VIPER Program?

24 A. No, it's not.

25 Q. It's throughout the city?

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1 A. Right.

2 Q. When you arrived there what was your assignment?

3 A. My assignment was the video patrol supervisor for the
4 four to twelve and midnight. I had two different shifts.

5 Q. Whatever shift you had you were the supervisor?

6 A. Right.

7 Q. And just so we're clear, the police department
8 generally works on eight hour shifts?

9 A. Correct.

10 Q. Midnight to eight, roughly eight to four, four to
11 twelve?

12 A. Correct.

13 Q. You will explain in a minute, the shifts overlap so
14 there's not this time period when there's no cop on the street,
15 correct? Right?

16 A. Correct.

17 Q. So it's generally for three eight hour shifts?

18 A. Yes, eight hours twenty-three minutes to be exact.

19 Q. Right. And that extra 23 minutes is so --

20 MR. KLEIN: Judge, I think he has to testify not
21 Mr. Bogdanos.

22 MR. BOGDANOS: I'm just trying to get past
23 foundational stuff.

24 THE COURT: Go ahead.

25 BY MR. BOGDANOS:

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1 Q. And specifically VIPER 12, what -- you were
2 supervising the people, what was the VIPER system, explain that
3 to us in the building, in your office?

4 A. Oh there's 267 cameras throughout the projects which
5 we have, I think it's like forty something monitors which you
6 actually monitor and they switch between the different cameras
7 located throughout the projects.

8 Q. And the monitor themselves are where?

9 A. They are inside the office where we sit at.

10 Q. And the monitors, since there's more cameras than
11 monitors, explain how that works?

12 A. Those monitors which are not fixed on one camera they
13 switch between the different cameras throughout the projects
14 but they still record.

15 Q. And are part of your duties to both watch those
16 monitors and ensure that the monitors and the cameras and the
17 recorders are working properly?

18 A. That's correct.

19 Q. What are you supposed to do if they are not?

20 A. You are supposed to make notification. Actually
21 notification consists of doing incident report and calling
22 different people to come out fix the cameras and see if they
23 work actually make sure they don't work.

24 Q. And, in fact, when you come on duty the beginning of
25 a shift do you have any responsibility with regard to the

DIRECT/SGT.DANIEL-BEY/PEOPLE

1 cameras and the video?

2 A. Yes. I am responsible for making sure all the
3 cameras are working properly and are recording as well.

4 Q. And do you do that then periodically throughout your
5 shift?

6 A. Yes, I do.

7 Q. Were you working on January 11th of -- oh, before I
8 get to the cameras, just to short circuit all the other
9 questions. Did you have any knowledge of any homicide
10 committed in Wagner -- in the 2400 building on January 11th?

11 A. Yes, I did.

12 Q. After the fact?

13 A. After. Yes, it was after.

14 Q. Did you have any knowledge at the time?

15 A. No, I didn't.

16 Q. So whatever you learned you learned later on?

17 A. Right, that's correct.

18 Q. So now let's go back to January 11th of 2008. Were
19 you on duty on that date?

20 A. Yes, I was.

21 Q. Were you on duty on January 12th?

22 A. Yes, I was.

23 Q. And were you on duty on January 13th?

24 A. Yes, I was.

25 Q. Same tour all three days?

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1 A. Yes, I was.

2 Q. Exactly what was your tour?

3 A. Midnight to 7:23. Eleven o'clock midnight which is
4 the midnight tour to 7:23 in the morning.

5 Q. All right. I know you know what you mean but you
6 just said 11 o'clock midnight so let's do that again. I know
7 you call it the midnight tour so let's do it again.

8 A. We call it the midnight tour but it actually starts
9 at 11 o'clock. It's called the midnight tour but it goes from
10 11 o'clock at night to 7:23 in the morning.

11 Q. And so we're clear, when I say the 11th, did you work
12 the Thursday into Friday and then Friday into Saturday and
13 Saturday into Sunday?

14 A. Correct.

15 Q. So those three?

16 A. Correct.

17 Q. You started the night before but those three
18 mornings?

19 A. Right.

20 Q. So it was actually the 10th, 11 o'clock at night for
21 the 11th and the 11th would have been for the 12th and the 12th
22 for the 13th. And was -- were the VIPER cameras working during
23 all three of your tours of duty on the 10th into the 11th, 11th
24 into the 12th and 12th into the 13th?

25 A. Yes. Were all the cameras working?

DIRECT/SGT.DANIEL-BEY/PEOPLE

1 Q. Good point. Were any of the cameras not working?

2 A. There were probably some cameras that weren't
3 working. Once they are not working they are documented in our
4 command log.

5 Q. Were all the cameras in the 2400 building working in
6 those three tours?

7 A. Without seeing the command log I couldn't tell you.

8 Q. Would looking at the command log from that date
9 refresh your recollection as to whether they were working?

10 A. Yes, it will.

11 MR. BOGDANOS: I would ask that this be deemed
12 marked People's 5 for identification and handed to the
13 sergeant. For the record, copies of the command log from
14 January through February of 2008, copy of which previously has
15 been given to the defense.

16 A. You are saying on the 11th?

17 Q. Your three tours, all three. Let's do them all at
18 once. Were the cameras in the 2400 building working?

19 A. Do you have the camera numbers for the 2400
20 building?

21 Q. Okay. Have you -- let's put that down for a minute.
22 Sergeant, have you had opportunity to look at the cameras for
23 2400?

24 A. Yes, I did.

25 Q. Okay. And did I specifically ask you to look at

DIRECT/SGT.DANIEL-BEY/PEOPLE

1 those cameras and to actually find yourself on each of the
2 cameras on all three of your tours of duty?

3 A. Yes, you did.

4 Q. If you would look to the right. Your left. Sorry.

5 Please, do you see the files that are indicated on the monitor
6 that appear to be a hard drive content, if you will?

7 A. Yes, I do.

8 Q. Have you seen those before?

9 A. Yes, I have.

10 Q. Are those the actual cameras I asked you to review
11 before?

12 A. Yes.

13 Q. And did you review those cameras?

14 A. Yes, I did.

15 Q. Looking at those camera numbers do they refresh your
16 recollection as to which camera numbers were in 2400?

17 A. Yes.

18 Q. So I come back to my first question and that is:

19 Were all the cameras in 2400 working on all three tours?

20 A. Yes, they were.

21 Q. You are absolutely certain?

22 A. Yes.

23 Q. You couldn't be mistaken?

24 A. No.

25 Q. In addition to you being certain that the cameras

DIRECT/SGT.DANIEL-BEY/PEOPLE

1 were working at the time, did I also ask you to confirm three
2 half years later that they were working back then?

3 A. Yes, you did.

4 Q. How did you do that?

5 A. What I did I went back to the times when I supposedly
6 signed in, I saw myself entering the building and the times
7 that I was supposedly signed out, and I saw myself leaving the
8 building as well.

9 Q. And did you see yourself at exactly the time on the
10 clips that you actually had signed yourself in on the log?

11 A. Yes, I did.

12 Q. And leaving?

13 A. Yes I did.

14 Q. All three tours?

15 A. All three tours.

16 Q. And did you record that information as you watched
17 it?

18 A. Yes, I did.

19 Q. And did you do that fairly and accurately?

20 A. Yes, I did.

21 MR. BOGDANOS: I would ask that the witness now
22 be handed People's, what I request be deemed marked People's 6
23 for identification.

24 For the record, Sergeant Daniel-Bey recorded times on
25 video a copy of which has previously been given to the

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1 defense.

2 BY MR. BOGDANOS:

3 Q. Do you see this document prepared there before you?

4 A. Yes, I do.

5 Q. Who prepared that document?

6 A. I did.

7 Q. And how did you prepare that document?

8 A. I went through each video clip at the time and I
9 recorded the times that I entered the building and the times
10 that I saw myself leaving the building on each of the cameras
11 that was supposed to pick me up going into the building in an
12 out of the building.

13 Q. And did you actually record those times as you were
14 actually looking at the video?

15 A. Yes, I did.

16 Q. Simultaneously?

17 A. Yes.

18 Q. And did you confirm that you did it accurately?

19 A. Yes, I did.

20 Q. And if you were to put that down would you be able to
21 testify as to each and every time you saw yourself in the
22 building without looking at it? I mean if you were not looking
23 at it could you tell this jury exactly what film -- what
24 clip -- start again.

25 If you were not -- and I apologize -- if you were not

DIRECT/SGT.DANIEL-BEY/PEOPLE

1 looking at that -- put it down, turn it over right now,
2 please -- could you tell this jury which camera you were on,
3 which film clip you were on, the number you were on and where
4 exactly in that clip you were without looking at that could you
5 possibly do that?

6 A. Yes.

7 Q. Wait. You could actually -- you could direct us to a
8 place on the clip without looking at that?

9 A. No, I need the clip name so I can go back to the
10 time.

11 Q. So you would need to use that document that you
12 prepared?

13 A. So I can refer back to the time.

14 Q. That's the reason you prepared it?

15 A. Yes.

16 MR. BOGDANOS: I will offer this into evidence
17 as past recollection recorded as People's Exhibit Number 6.

18 MR. KLEIN: Okay.

19 THE COURT: Thank you. People's 6 is admitted.

20 (People's Exhibit 6 was received in evidence)

21 BY MR. BOGDANOS:

22 Q. Now you can turn it over. And I'm certainly not
23 going to ask you to go through every single one of those but I
24 am going to ask you to go through one just so you can explain
25 to the jury the actual nomenclature and taxonomy of the film

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1 clips themselves.

2 So if I could ask you to start with --

3 MR. BOGDANOS: And I'm sorry. I actually need
4 to approach with the Court's permission.

5 THE COURT: Yes.

6 MR. BOGDANOS: And if I could have that for one
7 moment. I'm just going to indicate the one that's
8 highlighted. For the record it's January 11th camera 1B, at 11
9 o'clock.

10 BY MR. BOGDANOS:

11 Q. And here's what I'm going to ask you. Sergeant, the
12 camera, the -- go back to the content, please, the names of the
13 cameras. Camera 1A. Can you tell the jury which camera that
14 is or what the viewed is of camera 1A?

15 A. Camera 1A is the front door outside. That is when
16 you approach the door that's when you if anybody is seen before
17 they get into the lobby.

18 Q. So that's the camera that looks in?

19 A. That's the camera that looks out.

20 Q. Okay. I'm sorry. 1A, you are indicating is the
21 camera that looks outside or inside?

22 A. It should be outside. It's outside.

23 Q. It's outside looking in the door is what I am
24 asking. I think we're saying the same thing but we're saying
25 it backwards.

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1 A. Right.

2 Q. I am asking?

3 A. Well, that's the first camera that would be seen from
4 anybody coming into the door.

5 Q. Okay. Let me show you what has previously been
6 received in evidence subject to connection as two --

7 THE COURT: Three.

8 MR. BOGDANOS: Yes, Judge. Thank you.

9 Q. People's 3. Do you see this diagram?

10 A. Yes, I do.

11 Q. Do you recognize this diagram?

12 A. Yes, I do.

13 Q. What do you recognize it to be?

14 A. It's the front door of the front entrance door in the
15 hallway of 2400 Second Avenue.

16 Q. Do you see this red orange dot right here?

17 A. Yes.

18 Q. Do you know what's there?

19 A. That should be a camera.

20 Q. Would that be camera 1A?

21 A. Yes.

22 Q. Okay. So here's the front door?

23 A. Right.

24 Q. So it's the camera that's outside the front door?

25 A. Right, outside.

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1 Q. So we were saying the same thing and forgive me if I
2 misunderstood. Pointing to the next orange dot that appears to
3 be near the letter A, for the record, what is that cameras?

4 A. That's another camera right by the elevator looking
5 outside.

6 Q. What camera number is that, do you remember or do you
7 need to look at --

8 A. I need to look at where they are labeled at. That
9 should be 1B.

10 Q. Okay. Is this one right here the one you indicated
11 as 1A?

12 A. Yes, it is.

13 Q. I am going to write 1A on this and I am pointing to
14 what you indicated 1B.

15 A. Yes, it is.

16 Q. So I am going to write 1B. Okay. The camera where
17 there's another dot in front of the elevators, do you know what
18 camera number that is? You need to look?

19 A. That should be 2 lobby elevator.

20 Q. Okay. I'm going to write a 2 there. And there's a
21 dot right here?

22 A. That is right outside our office.

23 Q. Right outside the VIPER office?

24 A. Yes.

25 Q. What number is that?

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1 A. That should be 10.

2 Q. And while I am writing that what camera is indicated
3 in elevator A?

4 A. Elevator A should be 3.

5 Q. And elevator B?

6 A. Four.

7 Q. Have I written everything in here fairly accurately
8 as you told me to do?

9 A. Yes, you did.

10 Q. Okay. Thank you. All right. So, now, let's go --
11 well, actually that has to come down. Let's go to the entry I
12 showed you before. Would you explain to this jury how to find
13 you on that one entry and we're not going to do all the entries
14 we're just doing one but we need you to walk us through that.

15 A. What is 1B?

16 Q. Sure. Tell us exactly what to do.

17 A. So go to 1B.

18 Q. You have to tell us.

19 A. Open up 1B. The clip name is 7:34. 1/11 7:34. Then
20 you have to go to 7:17 -- 8 minutes, 45 seconds into the clip.
21 And I should be walking in the door at that time. Walking out,
22 actually.

23 Q. Is that you?

24 A. Yes, it is.

25 Q. Pause, please. Does that fairly accurately represent

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1 how you looked?

2 A. Yes, it was.

3 Q. How you looked on that day?

4 A. Yes, it is.

5 Q. It's your backpack?

6 A. Right.

7 Q. Your jacket?

8 A. Yes, it is.

9 Q. I am not going to ask you to do it in front of the
10 jury but you did that, I don't know, couple dozen times?

11 A. Yes, I did.

12 Q. Would you please reduce that and explain to us
13 exactly how we can figure out what time that is?

14 A. Okay. If you go to the previous clip.

15 Q. Well, first, let's do it this way, Sergeant -- I'm
16 sorry. I should have broken it up. The name of the clip
17 itself, what does that indicate?

18 A. That indicates the ending time of the previous clip.

19 Q. So if a clip is named 7:34, for example, that means
20 that clip ends at 7:34?

21 A. Right.

22 Q. So how can you tell the actual time, since we don't
23 see a time stamp when we open it up, how can you tell the
24 actual time that you recall seeing on that video?

25 A. You go back to the previous clip which is labeled

DIRECT/SGT.DANIEL-BEY/PEOPLE

1 7:17.

2 Q. Okay. And then what will -- so now we're at 7:17.

3 Now what?

4 A. No. Actually 7:34. 7:17 is where that clip ended
5 and 7:34 is where the other one begins.

6 Q. Let me back up for a second because I may be asking
7 this badly. The clip and information -- forgive my back if I
8 am blocking anyones view. Please raise your hand.

9 So there's a clip named 7:34 and before that there's
10 a clip that's named 7:17, correct?

11 A. Correct.

12 Q. You just told us that?

13 A. Correct.

14 Q. Now, no where on here does there appear to be a time,
15 right?

16 A. Correct.

17 Q. So because there's no time and you have told us at
18 7:34 is the end of this clip. What's the beginning of the
19 clip?

20 A. 7:17.

21 Q. So the way to get the beginning of the clip is to
22 look at --

23 A. Right. Go to the beginning of that clip.

24 Q. So you determine the time of the beginning of the
25 clip by looking at the end of the last clip?

DIRECT/SGT.DANIEL-BEY/PEOPLE

1 A. Correct.

2 Q. And then you just add the running time, in other
3 words, the time on the counter?

4 A. Right.

5 Q. And -- I'm sorry. It's terrible complicated and
6 thank you for your patience. And is that how you get the
7 actual time?

8 A. Yes.

9 Q. On all of them?

10 A. Yes.

11 Q. Having gone through all of this, did you notice
12 whether or not camera 1B is on the same time as all of the
13 other twelve cameras?

14 A. 1B it's maybe about two or three minutes off.

15 Q. With the other cameras?

16 A. Right, correct.

17 Q. And all the sort cameras are synchronized?

18 A. Yes, they are.

19 MR. BOGDANOS: Got it. Thank you. Nothing
20 further.

21 THE COURT: That completes your testimony,
22 Sergeant. Thank you.

23 (The witness was excused and exits the courtroom.)

24 THE COURT: You have twelve minutes you want to
25 start another witness?

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1 MR. BOGDANOS: Sure. It will be Sergeant
2 Suero. But I warn everyone it's the exact same purpose. The
3 video.

4 (The witness, Sergeant Elvis Suero, enters the
5 courtroom, takes the witness stand, is duly
6 sworn/affirmed in by the Clerk of the Court, responds to
7 the oath and testifies as follows:)

8 THE COURT CLERK: Do you solemnly swear or
9 affirm the testimony you are about to give shall be the
10 truth, the whole truth, and nothing but the truth, so
11 help you God?

12 THE WITNESS: I do.

13 THE COURT OFFICER: You may have a seat
14 Sergeant. Sergeant, can you state your complete name for
15 the record, spelling your last.

16 THE WITNESS: Elvis Suero, S-u-e-r-o.

17 THE COURT OFFICER: Shield and command.

18 THE WITNESS: Shield is 4780. I work in
19 Brooklyn North Narcotics.

20 DIRECT EXAMINATION

21 BY MR. BOGDANOS:

22 Q. Good afternoon, Sergeant. Thank you for your
23 patience today. Would you please tell us how long you have
24 been on the New York City Police Department, how long you have
25 been in Brooklyn Narcotics and how long you have been a

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1 sergeant?

2 A. I have been on the job eleven years. I have been in
3 Brooklyn North Narcotics about a month now. And I am about to
4 have four years as a sergeant in March.

5 Q. And was there a time when you were assigned to the
6 VIPER office of 2400 Second Avenue?

7 A. Yes.

8 Q. We have already heard all about VIPER so you don't
9 need to tell us how many monitors or cameras or what VIPER is.
10 When you were in VIPER were you a sergeant?

11 A. No, I wasn't.

12 Q. So you weren't a supervisor at the time?

13 A. No, I wasn't.

14 Q. Did you have responsibility for the proper working of
15 the cameras and monitors of the VIPER office?

16 A. Yes, I did.

17 Q. And did you discharge those duties?

18 A. Yes, I did.

19 Q. Moving to the 11th and 12th of January of 2008, were
20 your on duty on those two dates?

21 A. Yes, I was.

22 Q. What hours were you working both dates?

23 A. I was working 0700 by 1523. 3:23.

24 Q. Seven in the morning to 3:23 in the afternoon?

25 A. Yes.

DIRECT/SGT.SUREO/PEOPLE

1 Q. Friday and Saturday?

2 A. Yes.

3 Q. But you were off Sunday?

4 A. Yes.

5 Q. And were the cameras and monitors in the VIPER office
6 for the 2400 building working properly throughout both of your
7 tours?

8 A. They were. If they were not then there would have
9 been paperwork on them.

10 Q. So were they?

11 A. Yes.

12 Q. And that's part of your job?

13 A. Yes.

14 Q. To monitor those?

15 A. Yes.

16 Q. In addition to telling us that you knew then they
17 were working did I ask you to take steps now three and a half
18 years later to make sure that they were properly working three
19 and a half years ago?

20 A. Yes.

21 Q. What did you do?

22 A. I went back and looked at the monitors and saw when I
23 did come in and when I left the building.

24 Q. And did you do that each -- for each of the cameras
25 that I asked you to look at?

DIRECT/SGT.SUREO/PEOPLE

1 A. Yes, I did.

2 Q. And did you write down the times that you saw
3 yourself?

4 A. Yes, I did.

5 Q. And did the times that you saw yourself on the video,
6 were they the same times that you had actually logged in and
7 out for both of those tours?

8 A. Yes, they were.

9 Q. And did you record all that information?

10 A. I did.

11 Q. Did you do it as you were watching the video?

12 A. I did.

13 Q. Did you do that accurately?

14 A. Yes, I did.

15 Q. Are you sure?

16 A. Yes.

17 MR. BOGDANOS: I will ask the sergeant be handed
18 People's, what I request he be deemed marked People's 7 for
19 identification. Please take a look at that.

20 For the record, Sergeant Suero's time sheets have
21 previously been provided to the defense.

22 BY MR. BOGDANOS:

23 Q. Do you recognize that document?

24 A. I do.

25 Q. What do you recognize it to be?

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1 A. The times that I entered and left the building on
2 those dates.

3 Q. Who wrote that down?

4 A. I did.

5 Q. And did you do it accurately?

6 A. Yes, I did.

7 Q. Did you do it as you were actually looking at the
8 video?

9 A. Yes, I did.

10 Q. And one final question on that. Were all those times
11 that you have recorded did the video recording of the VIPER
12 video fairly and accurately record those times and records you
13 as you looked on that date? On those dates?

14 A. Yes, it did.

15 MR. BOGDANOS: I will offer People's 7 into
16 evidence. I have no further questions.

17 THE COURT: People's 7 is admitted. I see no
18 objection.

19 MR. KLEIN: No questions.

20 THE COURT: Thank you, Sergeant, you're done.

21 (The witness was excused and exits the courtroom.) (.

22 MR. BOGDANOS: I can do one more.

23 THE COURT: You're on a roll. Go ahead.

24 MR. BOGDANOS: The People call Officer Eric
25 Carricato.

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1 (The witness, P.O. Eric Carricato, enters the
2 courtroom, takes the witness stand, is duly
3 sworn/affirmed in by the Clerk of the Court, responds to
4 the oath and testifies as follows:)

5 THE COURT CLERK: Do you solemnly swear or
6 affirm the testimony you are about to give shall be the
7 truth, the whole truth, and nothing but the truth, so
8 help you God?

9 THE WITNESS: I do.

10 THE COURT OFFICER: Have a seat. In a loud
11 clear voice please state your name, spelling your last
12 name, shield and command.

13 THE WITNESS: Police Officer Eric Carricato.
14 C-a-r-r-i-c-a-t-o. Shield number 29933.

15 DIRECT EXAMINATION

16 BY MR. BOGDANOS:

17 Q. Officer Carricato, would you please tell us how long
18 you have been on the New York City Police Department and how
19 long you have been at the 23rd Precinct.

20 A. It's five years two months and I have been at the
21 23rd Precinct for about eight months.

22 Q. Was there a time period when you were assigned to the
23 VIPER office of the 2400 building in Wagner Houses?

24 A. Yes, I was.

25 Q. Were you working there in January of 2008?

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1 A. Yes, I was.

2 Q. The jury has already heard about all the monitors and
3 all the cameras so you don't need to go through any of that.

4 What were your duties within the VIPER office?

5 A. To monitor video.

6 Q. And did you do that accurately?

7 A. I did.

8 Q. And did you have a procedure to follow if any of the
9 monitors or cameras were not working?

10 A. Yes, we did.

11 Q. I invite your attention now to January 12th of 2008,
12 and January 13th of 2008, were you working on both days?

13 A. I was.

14 Q. Do you remember the tour you were working?

15 A. Working 1500 shift by 2323 hours.

16 Q. Okay, so 3 o'clock in the afternoon until 11:23
17 p.m.?

18 A. That's correct.

19 Q. And were all of the cameras and monitors and the
20 recorders in the 2400 building working properly throughout your
21 tour on both those days?

22 A. Yes, they were.

23 Q. You are absolutely certain?

24 A. I am positive.

25 Q. Did I, even though you knew they were working at the

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1 time, did I ask you none the less to confirm three and a half
2 years later that they were working back then?

3 A. That's correct.

4 Q. What did I ask you to do and what did you do?

5 A. To go back in the video and see when I saw myself
6 coming into work and leaving work.

7 Q. Did you do that?

8 A. I did.

9 Q. Did you do it fairly and accurately?

10 A. I did.

11 Q. And did you record the results?

12 A. I wrote them down on a piece of white paper.

13 MR. BOGDANOS: I would hand this to the officer,
14 People's 8 for identification, Police Officer Carricato's time
15 record previously given to the defendant.

16 Q. Do you recognize the document I just handed to you or
17 the Court Officer?

18 A. Yes. This is my handwriting.

19 Q. Are those the recorded times as you went through the
20 cameras from January 12th and 13th of 2008?

21 A. Yes, they are.

22 Q. Did you record them accurately?

23 A. I did.

24 Q. And, in fact, looking back when I asked you to view
25 the cameras and you did, looking at the cameras did they fairly

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1 and accurately record both the events that were taking place
2 and the times that they took place?

3 A. Yes, they do.

4 MR. BOGDANOS: Thank you. Nothing further. I
5 will offer that into evidence as People's 8 and no further
6 questions.

7 THE COURT: People's 8 is admitted. No
8 objection.

9 MR. KLEIN: No.

10 THE COURT: No cross.

11 MR. KLEIN: No.

12 THE COURT: Officer Carricato, thank you very
13 much.

14 MR. BOGDANOS: The next witness is long.

15 THE COURT: Ladies and gentlemen, that will do
16 it's for today. We are at the 4:30 hour. See you tomorrow
17 morning 9:45 the trial will resume. Please be here on time.
18 Please do not discuss the case. Those with notebooks may leave
19 them on their chairs and we'll pick them up.

20 Thank you very much, we'll see you tomorrow morning.

21 (The jury is excused and exits the courtroom.)

22 THE COURT: Any application?

23 MR. BOGDANOS: No.

24 MR. KLEIN: No.

25 THE COURT: Okay. 9:45. Thank you all.

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